

Copyright Act

[Enforced on July 23, 2009] [Law No. 9625, April 22, 2009, amendment]

CHAPTER 1. GENERAL PROVISIONS

Article 1 (Purpose) The purpose of this Act is to protect the rights of authors and the neighboring rights and to promote fair use of works in order to contribute to the improvement and development of the culture and related industries. <Amended on April 22, 2009>

Article 2 (Definitions) The terms used in this Act shall have the meanings as follows
<Amended on April 22, 2009>:

1. "Works" shall mean creative productions in which human ideas or emotions are expressed;
2. "Authors" shall mean the persons who create works;
3. "Public performance" shall mean the presentation of a work, or a performance, a phonogram, or a broadcast to the public by acting, musical playing, singing, narrating, reciting, screening, playback, or other means, and shall include transmission (excluding interactive transmission) that is made in a connected place in one and the same person's occupation;
4. "Performers" shall mean the persons who express a work by acting, dancing, musical playing, singing, narrating, reciting, or other artistic means, or who express something other than a work by a similar method including the persons who conduct, direct, or supervise performances;
5. "Phonograms" shall mean the media in which the sound (which refers to voice or sound effect herein; the same hereinafter) is fixed (excluding those in which the sound is fixed together with some visual images);

6. "Phonogram producers" shall mean the persons who plan and assume responsibility for the fixation of sound on phonograms;
7. "Public transmission" shall mean transmission of a work, a performance, a phonogram, a broadcast, or a database (hereinafter referred to as "works, etc.") or making such available to the public by wire or wireless means intended for reception or access by the public;
8. "Broadcasting" shall mean, among public transmission, the transmission of sounds, images, or sounds and images intended for simultaneous reception by the public;
9. "Broadcasting organizations" shall mean the persons engaged in the broadcasting business;
10. "Interactive transmission" shall mean, among public transmission, making works, etc. available to the public in such a way that members of the public may access them from a place and at a time of their choosing, and shall include the transmissions that occur thereby;
11. "Digital sound transmission" shall mean, among public transmission, the transmission of sounds in the digital method which is commenced upon request of members of the public intended for simultaneous reception by the public, and shall exclude interactive transmissions;
12. "Digital sound transmission organizations" shall mean the persons engaged in the digital sound transmission business;
13. "Cinematographic works" shall mean the creative production in which a series of images (regardless of whether or not accompanied by sound) are collected, and which can be played by mechanical or electronic devices and can be seen, or both seen and heard;
14. "Producers of cinematographic works" shall mean the persons who plan and assume responsibility for the production of cinematographic works;

15. "Works of applied art" shall mean artistic works that may be reproduced in the same shape on articles and whose originality is distinguishable from the articles used, and shall include designs, etc.;

16. "Computer program works" shall mean creative production expressed as a series of statements or instructions used directly or indirectly in an computer or other device (hereinafter referred to as "computer") which has an information processing ability in order to obtain a certain result;

17. "Compilation" shall mean a collection of works or symbols, letters, sounds, images, or materials in other formats (hereinafter referred to as "subject matters"), including databases;

18. "Compilation works" shall mean compilations of a creative nature in terms of selection, arrangement, or composition of its subject matters;

19. "Database" shall mean a compilation that arranges or composes subject matters systematically so that one can individually access or search such subject matters;

20. "Database producers" shall mean the persons who make a substantial investment in human or material resources for production of a database, or renewal, verification, or supplementation (hereinafter referred to as "renewal, etc.") of its subject matters;

21. "Joint works" shall mean works created jointly by two or more persons whose respective contributions cannot be separately exploited;

22. "Reproduction" shall mean the fixation or the reproduction in a tangible medium by means of printing, photographing, copying, sound or visual recording, or other means; in the case of architectural works, it shall include construction according to the models or plans for the construction;

23. "Distribution" shall mean the transfer by assignment or rental of the original or reproduction

of works, etc. to the public with or without payment by the public;

24. "Publication" shall mean the distribution of copies of works or phonograms to meet public demand;

25. "Making a work public" shall mean to make a work available to the public by means of performance, public transmission, exhibition, or other means and to publish a work;

26. "Copyright trust services" shall mean a line of business in which one holds in trust and continuously manages the rights on behalf of the persons who hold author's property rights, publication rights, neighboring rights, or rights of database producers, and shall include a general agent concerning exploitation of works, etc.;

27. "Copyright agency or brokerage services" shall mean a line of business in which one acts as an agent or a broker on behalf of the persons who hold author's property rights, publication rights, neighboring rights, or rights of database producers with regard to the exploitation of the rights;

28. "Technological protection measures" shall mean technological measures applied by a rights holder or a person who is delegated by such rights holder to effectively prevent or restrain the infringement of copyrights and other rights protected under this Act;

29. "Right management information" shall mean information which falls under any of the following Subparagraphs, or numbers or symbols representing such information, each of which is attached to the original or copies of works, etc. or is accompanied by performance, display, or public transmission thereof:

a. Information for identification of works, etc.;

b. Information for identification of authors, owners of author's property rights, publication rights, exclusive publication rights of programs or neighboring rights, or database producers; and

c. Information related to the terms and conditions of the use of works, etc.;

30. "Online service providers" shall mean the persons who provide others with services that reproduce or interactively transmit works, etc. through information and telecommunications networks (which refer to such information and telecommunications networks as provided in Subparagraph 1, Paragraph (1), Article 2 of the Act on Promotion of Information and Communications Network Utilization and Information Protection, Etc.; hereinafter the same shall apply.);

31. "Works made by an employee in the course of his duties" shall mean works made by an employee of a legal person, an organization, or other employer (hereinafter referred to as "legal person, etc.") during the course of his duties, and on the initiative of a legal person, etc.;

32. "The public" shall mean an unspecific multitude of people (including a specific multitude of people);

33. "Verification" shall mean to verify justifiable rights holders for authorization of exploitation of works, etc.; and

34. "Decompilation of program codes" shall mean reproduction or conversion of the codes of computer program works in order to obtain information necessary to achieve the interoperability of an independently-created computer program works with other computer programs.

Article 2-2 (Establishment of Policies for Copyright Protection, Etc.) (1) The Minister of Culture, Sports and Tourism may establish and enforce policies regarding each of the following Subparagraphs to achieve the purpose of this Act:

1. Matters about basic policies to create an environment conducive to protection of copyrights and fair use of works;

2. Matters about education and publicity to spread awareness of copyrights; and

3. Matters about policies for the right management information and technological protection measures of works, etc.

(2) The necessary matters for establishment and enforcement of policies pursuant to Paragraph

(1) shall be determined by Presidential Decree.

[This Article added on April 22, 2009]

Article 3 (Works by Foreigners) (1) The works by foreigners shall be protected in accordance with the treaties to which the Republic of Korea has acceded or which it has ratified.

(2) The works by foreigners who have their habitual residence in the Republic of Korea (including stateless persons and the foreign legal persons having their principal office in the Republic of Korea) and foreigners' works which are first published in the Republic of Korea (including works published in the Republic of Korea within thirty days after their publication in a foreign country) shall be protected under this Act.

(3) Even when foreigners' works (excluding foreigners who have their habitual residence in the Republic of Korea and stateless persons) are to be protected in accordance with Paragraphs (1) and (2), if the foreign country concerned does not protect the works of the nationals of the Republic of Korea, their protection in accordance with treaties and this Act may be correspondingly restricted.

CHAPTER 2. RIGHTS OF AUTHORS

SECTION 1. WORKS

Article 4 (Examples of Works, Etc.) (1) The following shall be the examples of works referred to in this Act:

1. Novels, poems, theses, lectures, speeches, plays, and other literary works;
2. Musical works;
3. Theatrical works including dramas, choreographies, pantomimes, and other theatrical works;
4. Paintings, calligraphic works, sculptures, prints, crafts, works of applied art, and other artistic works;
5. Architecture, architectural models, architectural plans, and other architectural works;
6. Photographic works (including other works produced by similar methods);
7. Cinematographic works;
8. Maps, charts, plans, sketches, models, and other diagrammatic works; and
9. Computer program works.

(2) Deleted <April 22, 2009>

Article 5 (Derivative Works) (1) A creation produced by means of translation, arrangement, alteration, dramatization, cinematization, etc. of an original work (hereinafter referred to as “derivative work”) shall be protected as an independent work.

(2) The protection of a derivative work shall not affect the rights of the author of the original work.

Article 6 (Compilation Works) (1) Compilation works shall be protected as independent works.

(2) The protection of a compilation work shall not affect the copyright of the subject matters constituting such compilation work and other rights protected under this Act.

Article 7 (Works Not Protected) No work which falls under any of the following Subparagraphs shall be protected under this Act:

1. Constitution, laws, treaties, decrees, ordinances, and rules;
2. Notices, public notifications, directions, and others similar to them issued by the national or local government;
3. Judgments, decisions, orders, or rulings of courts, as well as rulings and decisions made by the administrative appeal procedures or other similar procedures;
4. Compilations or translations of works as referred to in Subparagraphs 1 to 3 which are produced by the national or local government; and
5. Current news reports which transmit simple facts.

SECTION 2. AUTHORS

Article 8 (Presumption of Authorship, Etc.) (1) Any person who falls under any of the following Subparagraphs shall be presumed to be an author:

1. A person whose real name or well-known pseudonym (which refers to pen-, stage-, or screen-name, pseudonym, abbreviation, etc. herein; hereinafter the same shall apply.) is indicated as the name of the author in the customary manner on the original or copies of a work; and
2. A person whose real name or well-known pseudonym is indicated as the author in the public performance or public transmission of a work.

(2) If the name of the author as prescribed under any of Subparagraphs of Paragraph (1) is not indicated on a work, the person who is indicated as publisher or public performer, or a person who is making the work public shall be presumed to hold the copyright. <Amended on April 22,

2009>

Article 9 (Authorship of a Work Made by an Employee in the Course of His Duties) The authorship of a work which is made by an employee of a legal person, etc. during the course of his duties and is made public under the name of such a legal person, etc. as the author shall be attributed to that legal person, etc., unless otherwise stipulated in a contract, work regulation, etc.: provided that being made public is not a requirement for computer program works (hereinafter referred to as “programs”). <Amended on April 22, 2009>

Article 10 (Copyright) (1) The author shall enjoy the rights prescribed in accordance with Articles 11 to 13 (hereinafter referred to as “author’s moral rights”) and the rights prescribed under Articles 16 to 22 (hereinafter referred to as “author’s property rights”).

(2) The copyright shall take effect on the date a work is created regardless of the fulfillment of any procedure or formality.

SECTION 3. AUTHOR’S MORAL RIGHTS

Article 11 (Right to Make Public) (1) The author shall have the right to decide whether or not to make his work public.

(2) If an author has transferred by assignment his property rights in a work not yet made public pursuant to Article 45, authorized to exploit pursuant to Article 46, established the right of publication pursuant to Article 57, or established exclusive publication rights of programs pursuant to Article 101-6, he shall be presumed to have given the other party his consent to make it public. <Amended on April 22, 2009>

(3) If an author has transferred by assignment the original of his work of art, architectural work, or photographic work (hereinafter referred to as “work of art, etc.”) not yet made public, he shall be presumed to have given the other party his consent to make the original public by exhibition.

(4) If a derivative work or compilation work has been made public with the consent of the author, its original shall be considered also to have been made public.

Article 12 (Right to Indicate the Author’s Name) (1) The author shall have the right to indicate his real name or pseudonym on the original, copies, or publication media of his work.

(2) In the absence of any intention of the author to the contrary, the person using his work shall indicate the name of the author in the same manner as that already adopted by the author, unless such indication is deemed impossible in light of the nature of a work, and the purpose and manner of its exploitation etc.

Article 13 (Right to Preserve the Integrity) (1) The author shall have the right to preserve the integrity of the content, form, and title of his work.

(2) The author shall not object to a modification falling under any of the following Subparagraphs: provided that substantial modification has not been made <Amended on April 22, 2009>:

1. In the case where a work is used in accordance with Article 25, a modification of expression within the limit as deemed unavoidable for the purpose of school education;

2. Extension, rebuilding, or other form of alteration of architecture;

3. Modification within the limit as deemed necessary to enable programs that can be used only on specific computers to be used on other computers;

4. Modification within the limit as deemed necessary to use programs more effectively on specific computers; and

5. Other modifications within the limit as deemed unavoidable in the light of the nature of a work, and the purpose and manner of its exploitation etc.

Article 14 (Inalienability of Author's Moral Rights) (1) Author's moral rights shall belong exclusively to the author.

(2) Even after the death of the author, no person who exploits his work shall commit an act which would be damaging to author's moral rights if he were alive: except that such an act is deemed to have not defamed the author in light of the nature and extent of the act, and in view of the prevailing social norms.

Article 15 (Author's Moral Rights in Joint Works) (1) Author's moral rights in a joint work may not be exercised without the unanimous agreement of all the authors concerned. In this case, none of the authors may in bad faith prevent the agreement from being reached.

(2) Authors of a joint work may designate one of them as a representative in the exercise of their moral rights.

(3) Limitations imposed on the representation mentioned pursuant to Paragraph (2) shall not be effective against a bona fide third person.

SECTION 4. AUTHOR'S PROPERTY RIGHTS

SUBSECTION 1. TYPES OF AUTHOR'S PROPERTY RIGHTS

Article 16 (Right of Reproduction) The author shall have the right to reproduce his work.

Article 17 (Right of Public Performance) The author shall have the right to perform his work publicly.

Article 18 (Right of Public Transmission) The author shall have the right to communicate his work to the public.

Article 19 (Right of Exhibition) The author shall have the right to exhibit the original or copies of his work of art, etc.

Article 20 (Right of Distribution) The author shall have the right to distribute the original or copies of his work, unless the original or copies of a work is offered for transaction by means of selling, etc. with the authorization of the owner of the property rights. <Amended on April 22, 2009>

Article 21 (Right of Rental) Notwithstanding the proviso of Article 20, the author shall have the right to rent a commercial phonogram or commercial program for profit-making purposes. <Amended on April 22, 2009>

Article 22 (Right of the Production of Derivative Works) The author shall have the right to produce and exploit a derivative work based on his original work.

SUBSECTION 2. LIMITATIONS ON AUTHOR'S PROPERTY RIGHTS

Article 23 (Reproduction for Judicial Proceedings, Etc.) It shall be permissible to reproduce a work if and to the extent deemed necessary for the purpose of judicial proceedings and of internal use in the legislative or administrative organs: provided that such reproduction does not unreasonably prejudice the interests of the owner of author's property rights with respect to the nature of the work as well as the number of copies and the nature of reproduction.

Article 24 (Use of Political Speeches, Etc.) It shall be permissible to exploit, by any means, political speeches delivered in public and statements made in courts of law, the National Assembly, or municipal assemblies, unless the speeches or statements written by the same authors have been edited.

Article 25 (Use for the Purpose of School Education, Etc.) (1) A work already made public may be reproduced in textbooks to the extent deemed necessary for the purpose of education in high schools, their equivalents, or lower level schools.

(2) Schools established by special laws; schools under the Early Childhood Education Act, the Elementary and Secondary Education Act, or the Higher Education Act; educational institutions operated by the national or local government; and educational support institutions belonging to the national or local government to support classroom education at these educational institutions may reproduce, distribute, perform publicly, broadcast, or conduct interactive transmission a part of a work already made public to the extent deemed necessary for the purpose of classroom education or support: provided that the use of the entirety of a work is

deemed inevitable in the light of the nature of a work, and the purpose and manner of its exploitation, etc., use of the entirety of the work shall be permissible. <Amended on April 22, 2009>

(3) A person who attends the educational institutions described in Paragraph (2) may reproduce or interactively transmit a work already made public within the limit prescribed in Paragraph (2) to the extent deemed necessary for the purpose of classroom education.

(4) A person who intends to exploit a work pursuant to Paragraphs (1) and (2) shall pay remuneration to the owner of author's property rights according to the criteria for remuneration as determined and published by the Minister of Culture, Sports and Tourism. Those who engage in reproduction, distribution, public performance, broadcasting, or interactive transmission of a work done at high schools, their equivalents, or lower level schools as prescribed under Paragraph (2) shall not be obliged to pay remuneration. <Amended on February 29, 2008 and April 22, 2009>

(5) The right to receive remuneration pursuant to Paragraph (4) shall be exercised by an organization which satisfies all of the following conditions and is designated by the Minister of Culture, Sports and Tourism. The consent of the organization shall be necessary when the Minister of Culture, Sports and Tourism designates such organization. <Amended on February 29, 2008> The organization shall:

1. Consist of the persons who hold the right to receive remuneration in the Republic of Korea (hereinafter referred to as "remuneration right holder");
2. Not be profit making; and
3. Have ample capability to carry out its duties including collecting and distributing the remuneration.

(6) At the request of a remuneration right holder, the organization under Paragraph (5) may not refuse exercise of the right of a remuneration right holder even if the remuneration right holder is not a member of the organization. In this case, the organization shall have the authority to exercise judicial or non-judicial acts with regard to the right under its name.

(7) The Minister of Culture, Sports and Tourism may revoke the designation if the organization under Paragraph (5) falls under any of the following Subparagraphs <Amended on February 29, 2008>:

1. Where an organization fails to satisfy the conditions prescribed in Paragraph (5);
2. Where an organization violates the work regulation with regard to remuneration; and
3. Where there is a concern that the interest of a remuneration right holder could be harmed due to the organization's suspension of its duties with regard to remuneration for a considerable period of time.

(8) The organization under Paragraph (5) may use undistributed remunerations for which notification was made three or more years ago for the public interest after obtaining authorization of the Minister of Culture, Sports and Tourism. <Amended on February 29, 2008>

(9) The necessary matters for designation and revocation of appointment of the organization, work regulations, notification of distribution of remuneration, authorization of exploitation of undistributed remuneration for the public interest, etc. in accordance with Paragraphs (5), (7) and (8) shall be set forth by Presidential Decree.

(10) If an educational institution conducts interactive transmission pursuant to Paragraph (2), the necessary measures set forth by Presidential Decree including reproduction prevention measures shall be taken in order to prevent infringement on copyrights and other rights protected under this Act.

Article 26 (Use for News Report) When reporting current events by means of broadcasts, newspapers, or other means, it shall be permissible to reproduce, distribute, perform publicly, or transmit to the public a work seen or heard in the course of the event, to the extent justified by the reporting purpose.

Article 27 (Reproduction, Etc. of News Articles and Editorials) News articles and editorials about politics, economy, society, culture, and religion published in newspapers and Internet newspapers pursuant to Article 2 of the Act on the Freedom of Newspapers, Etc. and Guarantee of Their Functions or in news communications pursuant to Article 2 of the Act on News Communication Promotion may be reproduced, distributed, or broadcast by other media organizations, unless any indications of prohibition of exploitation exist.

Article 28 (Quotations from Works Made Public) It shall be permissible to make quotations from a work already made public: provided that they are within a reasonable limit for news reporting, criticism, education, and research, etc. and compatible with fair practices.

Article 29 (Public Performance and Broadcasting for Non-profit Purposes) (1) It shall be permissible to perform publicly or broadcast a work already made public for non-profit purposes and without charging any fees to audience, spectators or third persons: provided that the performers concerned are not paid any remuneration for such performances.

(2) Commercial phonograms or cinematographic works may be played back for the public, if no fee is charged to the audience or spectators, except the cases as set forth by Presidential

Decree.

Article 30 (Reproduction for Private Use) A user may reproduce by himself a work already made public for the purpose of his personal, family, or other similar uses within a limited circle, not for profit purposes: provided that this shall not apply to reproduction by a photocopier set up for public use.

Article 31 (Reproduction, Etc. in Libraries, Etc.) (1) Libraries under the Library Act and the facilities (including the heads of the appropriate facilities; hereinafter referred to as "libraries, etc.") as prescribed by Presidential Decree among those facilities which provide books, documents, records, and other materials (hereinafter referred to as "books, etc.") for public use may reproduce the works contained in books, etc. held by the libraries, etc. (in the case of Subparagraph 1, including the books, etc. reproduced and interactively transmitted from other libraries etc. to the libraries, etc. in accordance with the provision of Paragraph (3) hereof) in any of the following cases: provided that in the case of Subparagraphs 1 and 3, the works may not be reproduced in digital format:

1. Where, at the request of a user and for the purpose of research and study, a single copy of a part of books, etc. already made public is provided to him;
2. Where it is necessary for libraries, etc. to reproduce books, etc. for the purpose of preserving such books, etc.; and
3. Where libraries, etc. provide other libraries etc. with a reproduction of books, etc. that are out of print or scarcely available for similar reasons at the request of other libraries etc. for their collection purpose.

(2) Libraries, etc. may reproduce or interactively transmit their books, etc. to allow users to peruse them in such libraries, etc. by using computers. In such case, the number of users who may peruse them at the same time shall not exceed the number of copies of such books, etc. held by the libraries, etc. or authorized to be used by the persons with copyrights or other rights protected under this Act. <Amended on April 22, 2009>

(3) Libraries, etc. may reproduce or interactively transmit their books, etc. to allow users at other libraries, etc. to peruse them by computers: provided that, in those cases where all or a part of the books, etc. have been published for sale, such books, etc. shall not be reproduced or interactively transmitted until a period of five years has elapsed since the publication date of such books, etc. <Amended on April 22, 2009>

(4) In reproducing books, etc. pursuant to Subparagraph 2 of Paragraph (1), Paragraph (2) or Paragraph (3), libraries, etc. shall not reproduce such books, etc. in digital format if they are being sold in digital format.

(5) In printing books, etc. in digital format pursuant to Subparagraph 1 of Paragraph (1), or reproducing or interactively transmitting books, etc. for the purpose of allowing perusal inside other libraries, etc. pursuant to Paragraph (3), libraries, etc. shall pay the owners of author's property rights remuneration in accordance with the standards determined and published by the Minister of Culture, Sports and Tourism: provided that said provision shall not apply to books, etc. (excluding those books, etc. which are, in part or in whole, published for a sales purpose) regarding which the national, local governments, or schools as provided in Article 2 of the Higher Education Act hold author's property rights. <Amended on February 29, 2008>

(6) The regulation regarding remuneration in Paragraph (5) to Paragraph (9) of Article 25, shall apply mutatis mutandis to foregoing Paragraph (5) with regard to distribution of remuneration,

etc.

(7) If books, etc. are reproduced or interactively transmitted in digital format pursuant to foregoing Paragraphs (1) through (3), libraries, etc. shall take necessary measures as provided by Presidential Decree such as reproduction prevention measures in order to prevent infringement of copyrights and other rights protected under this Act.

(8) If the National Library of Korea collects online materials for preservation purposes pursuant to Article 20-2 of the Library Act, it may reproduce the corresponding materials. <Added on March 25, 2009>

Article 32 (Reproduction for Examination Questions) It shall be permissible to reproduce and distribute a work already made public in questions of entrance examinations or other examinations of knowledge and skills, to the extent deemed necessary for that purpose: provided that it is a non-profit purpose. <Amended on April 22, 2009>

Article 33 (Reproduction, Etc. for Visually Impaired Persons, Etc.) (1) Published works may be reproduced and distributed in Braille for visually impaired persons, etc.

(2) The facilities (including the heads of appropriate facilities) as prescribed by Presidential Decree among facilities for the purpose of promoting the welfare of visually impaired persons, etc. may sound record a published literary work, or reproduce, distribute or interactively transmit such work in a recorded form as set forth by Presidential Decree for the exclusive use of visually impaired persons, etc. in order to provide such for the use of visually impaired persons, etc. for non-profit making purposes. <Amended on March 25, 2009>

(3) The scope of visually impaired persons, etc. as provided in foregoing Paragraphs (1) and (2)

shall be set forth by Presidential Decree.

Article 34 (Ephemeral Sound or Visual Recordings by Broadcasting Organizations) (1)

Broadcasting organizations with the authority to broadcast a work may make ephemeral sound or visual recordings of the work for the purpose of their own broadcasting and by the means of their own facilities.

(2) Sound or visual recordings made pursuant to Paragraph (1) may not be kept for a period exceeding one year from the date of sound or visual recording, unless they are kept as materials for public records at places as prescribed by Presidential Decree.

Article 35 (Exhibition or Reproduction of Works of Art, Etc.) (1)

The owner of the original of a work of art, etc. or a person who has obtained the owner's authorization, may exhibit the work in its original form: provided that this provision shall not apply if the work of art is to be permanently exhibited in a street or park, on the exterior of a building, or other places open to the public.

(2) Works of art, etc. exhibited at all times at an open place as referred to in the proviso of Paragraph (1) may be reproduced and used by any means, except those falling under any of the following cases:

1. Where a building is reproduced in another building;
2. Where a sculpture or a painting is reproduced in another sculpture or a painting;
3. Where the reproduction is made in order to exhibit permanently at an open place, as prescribed under the proviso of Paragraph (1); and
4. Where the reproduction is made for the purpose of selling its copies.

(3) A person who exhibits works of art, etc. under Paragraph (1), or who intends to sell originals of works of art, etc. may reproduce and distribute them in a pamphlet for the purpose of explaining and introducing them.

(4) A portrait or a similar photographic work produced by consignment shall not be exploited without the consent of the consignor.

Article 36 (Use by Means of Translation, Etc.) (1) If a work is used in accordance with Articles 25, 29, or 30, the work may be used by means of translation, arrangement, or adaptation.

(2) If a work is used in accordance with Articles 23, 24, 26, 27, 28, 32, or 33, the work may be used by means of translation.

Article 37 (Indication of Sources) (1) A person who uses a work pursuant to this Subsection shall indicate its sources, except the cases as prescribed under Articles 26, 29 to 32, or 34.

(2) The indication of the sources shall be made clearly in a manner and to the extent deemed reasonable in the situation in which the work is used. If the real name or pseudonym of the author of a work is indicated, such real name or pseudonym shall be indicated.

Article 37-2(Exclusion to Application) Articles 23, 25, 30, and 32 shall not apply to programs

[This Article added on April 22, 2009]

Article 38 (Relationship with Author's Moral Rights) No provision of this Subsection may be interpreted as affecting the protection of author's moral rights.

SUBSECTION 3. DURATION OF AUTHOR'S PROPERTY RIGHTS

Article 39 (Principles of the Protection Period) (1) Author's property rights in a work shall continue to subsist during the lifetime of an author and for a period of fifty years after the death of an author, unless otherwise provided in this Subsection. Author's property rights in a work which is first made public forty years after the death of an author and before a period of fifty years has elapsed shall continue to subsist for a period of ten years after it is made public.

(2) Author's property rights in a joint work shall continue to subsist for a period of fifty years after the death of the last surviving co-author.

Article 40 (Period of Protection for Anonymous and Pseudonymous Works) (1) Author's property rights in an anonymous or pseudonymous work, unless the pseudonym is widely known, shall continue to subsist for a period of fifty years after it has been made public: provided that within such period, if there are reasonable grounds for recognizing a date fifty years after the death of the author, such property rights shall be deemed to have lapsed fifty years after the death of the author.

(2) The provision in Paragraph (1) shall not apply to any of the following cases:

1. Where the real name or the well-known pseudonym of an author is revealed during the period referred to in Paragraph (1); and
2. Where the real name of an author is registered pursuant to Paragraph (1) of Article 53 during the period referred to in Paragraph (1)

Article 41 (Period of Protection for a Work Made by an Employee in the Course of His

Duties) Author's property rights of a work made by an employee in the course of his duties shall continue to subsist for a period of fifty years after it has been made public: provided that if it has not been made public within fifty years after its creation, author's property rights shall continue to subsist for a period of fifty years after its creation.

Article 42 (Period of Protection for Cinematographic Works and Programs <Amended on April 22, 2009>) Notwithstanding foregoing Articles 39 and 40, author's property rights in cinematographic works and programs shall continue to subsist for a period of fifty years from the time that such works are made public: provided that, in those cases where such works are not made public within fifty years after their creation, such rights shall continue to subsist for a period of fifty years from the time of their creation. <Amended on April 22, 2009>

Article 43 (The Time When Serial Publications, Etc. Have Been Made Public) (1) The time of record when a work has been made public pursuant to the proviso of Paragraph (1) of Article 39, Paragraph (1) of Article 40, or Article 41, shall be that when making public each volume, issue, or installment of works which are made public in the form of volumes, issues, or installments, or that when making public the last part of works which are made public in parts in a successive manner.

(2) In the case of works to be completed by making public in parts in a successive manner, the last part already made public shall be considered to be the last one under Paragraph (1) if the next part is not made public within a period of three years following the making public of the preceding part.

Article 44 (Reckoning of the Protection Period) The protection period of author's property rights as prescribed in this Subsection shall be reckoned from the beginning of the year following the date when the author died, the work is created, or is made public.

SUBSECTION 4. TRANSFER, EXERCISE, AND EXPIRY OF AUTHOR'S PROPERTY RIGHTS

Article 45 (Transfer of Author's Property Rights) (1) Author's property rights may be transferred by assignment in whole or in part.

(2) Where author's property rights are transferred by assignment in whole, the right of the production and exploitation of a derivative work as prescribed under Article 22 shall be presumed not to be included in the transfer, unless otherwise stipulated: provided that, in case of programs, the right of the production of a derivative work shall be presumed to be included in the transfer unless otherwise stipulated <Amended on April 22, 2009>.

Article 46 (Authorization to Exploit Works) (1) The owner of author's property rights may grant another person authorization to exploit the work.

(2) The person who obtained such authorization pursuant to Paragraph (1) shall be entitled to exploit the work in such a manner and within the limit of such conditions as authorized.

(3) The right of exploitation as authorized pursuant to Paragraph (1) may not be transferred by assignment to a third party without the consent of the owner of author's property rights.

Article 47 (Author's Property Rights on Which the Right of Pledge Is Established) (1) The

right of pledge may be exercised with respect to money or the like accruing from the transfer by assignment of author's property rights or the exploitation of the work (including royalties for the establishment of the right of publication and exclusive publication rights of programs): provided that payment or delivery is preceded by the seizure of money or the like mentioned above.

<Amended on April 22, 2009>

(2) Author's property rights on which the right of pledge is established shall be exercised by the owner of author's property rights unless otherwise stipulated in the contract of establishment.

<Added on April 22, 2009>

Article 48 (Exercise of Author's Property Rights in Joint Works) (1) Author's property rights in a joint work may not be exercised without the unanimous agreement of all the owners of author's property rights. Each owner of author's property rights shall not be entitled to transfer by assignment or pledge his share of author's property rights without the consent of the other authors. Each owner may not, without reasonable justification, prevent the agreement from being reached or refuse the consent in bad faith.

(2) The profit accruing from the exploitation of a joint work may be apportioned among its authors according to the degree of contribution by each author, unless otherwise stipulated. If the degree of each contribution is not clear, the profit may be equally apportioned to all the authors.

(3) The owner of author's property rights in a joint work may renounce his share. In the case of renunciation or the death of the owner of author's property rights without an heir, his share may be apportioned among the other owners according to the ratio of their holding shares.

(4) Paragraphs (2) and (3) of Article 15 shall apply *mutatis mutandis* to the exercise of author's

property rights in a joint work.

Article 49 (Expiry of Author's Property Rights) Author's property rights shall expire in any of the following cases:

1. Where, after the author's death without an heir, author's property rights are to belong to the national government according to provisions of the Civil Law and other laws; and
2. Where, after the dissolution of a legal person or an organization which is the owner of author's property rights, author's property rights are to belong to the national government according to the provisions of the Civil Law and others laws.

SECTION 5. EXPLOITATION OF WORKS UNDER STATUTORY LICENSE

Article 50 (Exploitation of Works in Which the Owner of Author's Property Rights Is Not Known) (1) Where any person, despite his considerable efforts in accordance with the criteria prescribed by Presidential Decree, cannot identify the owner of author's property rights in a work made public (except foreigners' works), or his place of residence and therefore is unable to obtain the authorization of the author for its exploitation, he may exploit the work by obtaining approval of the Minister of Culture, Sports and Tourism as prescribed by Presidential Decree, and depositing a sum of remuneration money according to the criteria as determined by the Minister of Culture, Sports and Tourism. <Amended on February 29, 2008>

(2) The person who exploits a work under the provision of Paragraph (1) shall indicate that the exploitation is made with approval and the date when the approval is issued.

(3) Where a work which already obtained approval of the Minister of Culture, Sports and

Tourism for its exploitation pursuant to Paragraph (1) becomes the object of approval of the same kind at a later time, the procedure of making considerable efforts in accordance with the criteria as prescribed by Presidential Decree pursuant to Paragraph (1) may be omitted, unless the owner of author's property rights lodges an objection in accordance with the procedure prescribed by Presidential Decree before approval for statutory license for the work is granted.

(4) The Minister of Culture, Sports and Tourism shall notify the content of statutory license on telecommunications networks in accordance with Presidential Decree. <Amended on February 29, 2008>

Article 51 (Broadcasting of Works Made Public) Where a broadcasting organization which intends to broadcast a work already made public for the sake of the public benefit has negotiated with the owner of author's property rights but failed to reach an agreement, it may broadcast the work by obtaining approval of the Minister of Culture, Sports and Tourism as prescribed by Presidential Decree, and paying to the owner of author's property rights or depositing a sum of remuneration money according to the criteria as determined by the Minister of Culture, Sports and Tourism. <Amended on February 29, 2008>

Article 52 (Production of Commercial Phonograms) If three years have passed after the date of the first sale of a commercial phonogram in the Republic of Korea and if any person who intends to produce a commercial phonogram by recording works already recorded on such a phonogram has negotiated with the owner of author's property rights but failed to reach an agreement, he may produce the phonogram by obtaining approval of the Minister of Culture, Sports and Tourism as prescribed by Presidential Decree, and paying to the owner of author's

property rights or depositing a sum of remuneration money according to the criteria as determined by the Minister of Culture, Sports and Tourism. <Amended on February 29, 2008>

SECTION 6. REGISTRATION AND AUTHENTICATION

Article 53 (Registration of Copyright) (1) The author may have the items of the following

Subparagraphs registered:

1. Real name, pseudonym (limited to a case where a pseudonym was used when a work was made public), nationality, domicile, or temporary domicile of the author;
2. Title, category, and date of creation of a work;
3. Whether a work was made public, and the country and date in which the work was first made public; and
4. Other items as prescribed by Presidential Decree.

(2) In the absence of any intention of the author to the contrary after the death of the author, the person designated by the will of the author or his heir may make such registrations as prescribed under each Subparagraph of Paragraph (1).

(3) The person whose real name is registered as the author in accordance with Paragraphs (1) and (2) shall be presumed to be the author of the registered work. The work whose date of creation or having first been made public is registered shall be presumed to have been created or first made public on the date registered: provided that, if the date of creation is registered after one year has lapsed from when the work is created, the work shall not be presumed to have been created on the registered date. <Amended on April 22, 2009>

Article 54 (Registration and Effect of Change of Rights, Etc.) The following matters may be registered and shall not be effective against any third party without the registration:

1. Transfer by assignment of author's property rights (except that by inheritance or other successions in general) or the restriction on the disposal of author's property rights; and
2. Establishment, transfer, alteration, expiry or the restriction on the disposal, of the right of pledge on author's property rights.

Article 55 (Procedures, Etc. for Registration) (1) The registration as prescribed pursuant to Articles 53 and 54 shall be made by the Minister of Culture, Sports and Tourism on the copyright register (the program register in case of programs herein; hereinafter the same shall apply.).

<Amended on February 29, 2008 and April 22, 2009>

(2) The Minister of Culture, Sports and Tourism may return the application for registration falling under any of the following cases: provided that this shall not apply if the defects of the application can be corrected and the applicant corrects them on the date of application

<Amended on February 29, 2008>:

1. Where the application for registration is not for the intended registration; and
2. Where the application for registration is not in the format as prescribed by the Ordinance of the Minister of Culture, Sports and Tourism or does not have other necessary materials or documents attached to it.

(3) The Minister of Culture, Sports and Tourism shall issue or post on the telecommunications networks a registration notice concerning the registration made on the copyright register in accordance with Paragraph (1), and in the case when anyone applies, the Minister of Culture, Sports and Tourism shall have the copyright register perused by the applicant or shall issue a

copy of the copyright register to the applicant. <Amended on February 29, 2008>

(4) The necessary matters concerning registration, the return of the application for registration, the issuance or posting of a registration notice, the perusal of the copyright register, and the issuance of a copy of the copyright register in accordance with Paragraphs (1) to (3) shall be set forth by Presidential Decree.

Article 55-2 (Obligation to Maintain Confidentiality) Any person who conducts registration tasks pursuant to Articles 53 to 55 or who used to be in such position shall not divulge secrets he came to know in the course of conducting such tasks to third parties.

[This Article added on April 22, 2009]

Article 56 (Authentication of Rights Holders, Etc.) (1) The Minister of Culture, Sports and Tourism may designate an organization for authentication to protect the safety and faith of transactions of works, etc. <Amended on February 29, 2008>

(2) The necessary matters regarding the designation of an organization for authentication, revocation of such designation, authentication procedures, etc. in accordance with Paragraph (1) shall be set forth by Presidential Decree. <Amended on April 22, 2009>

(3) The organization pursuant to Paragraph (1) may collect fees with respect to the authentication and the amount shall be determined by the Minister of Culture, Sports and Tourism. <Amended on February 29, 2008>

SECTION 7. RIGHT OF PUBLICATION

Article 57 (Establishment of the Right of Publication) (1) The owner who has the right to reproduce and distribute a work (hereinafter referred to as “owner of the right of reproduction”) may establish the right of publication (hereinafter referred to as “right of publication”) for a person who intends to publish the work in writing or drawing through printing or other similar means.

(2) The person for whom the right of publication (hereinafter referred to as “owner of the right of publication”) pursuant to Paragraph (1) has been established shall have the right to publish the original text of the work according to the terms of the contract of establishment.

(3) If the right of pledge is established on the right of reproduction of a work, the owner of the right of reproduction may establish the right of publication only with the authorization of the owner of the right of pledge.

Article 58 (Obligations of the Owner of the Right of Publication) (1) Unless otherwise stipulated in the contract of establishment, the owner of the right of publication shall have the obligation to publish the work within nine months after the date when he received from the owner of the right of reproduction manuscripts or other similar materials which are necessary for the reproduction of the work.

(2) Unless otherwise stipulated in the contract of establishment, the owner of the right of publication has the obligation to continue to publish the work in its original form in accordance with customary practice.

(3) Unless otherwise stipulated, the owner of the right of publication has the obligation to indicate a notice of the owner of the right of reproduction in each copy as prescribed by Presidential Decree.

Article 59 (Revision, Addition or Reduction of a Work) (1) If the owner of the right of publication publishes a new edition of the work which is the object of his right, the author may revise, add or reduce the contents of his work to the extent that it is justified.

(2) If the owner of the right of publication intends to make a new edition of the work which is the object of his right, he shall notify the author of his intention in advance every time he intends to do so, unless otherwise stipulated.

Article 60 (Duration of the Right of Publication) (1) The duration of the right of publication shall be three years from the date of the first publication of a work, unless otherwise stipulated in the contract of establishment.

(2) If the author of the work which is the object of the right of publication dies within the duration of the right of publication, the owner of the right of reproduction, notwithstanding the provision of Paragraph (1), may reproduce the work in a complete collection of works or other compilation, or publish the work by separating it from a complete collection of works or other compilation.

Article 61 (Notification of the Termination of the Right of Publication) (1) If the owner of the right of publication has violated any provision of Paragraph (1) or (2) of Article 58, the owner of the right of reproduction may require him to fulfill his obligation within a prescribed period of no less than six months. If the owner of the right of publication fails to do so within such period, the owner of the right of reproduction may notify him of the termination of his right of publication.

(2) The owner of the right of reproduction may immediately notify the owner of the right of publication of the termination of the right of publication, notwithstanding the provision of

Paragraph (1), when it is impossible for the owner of the right of publication to publish the work, or it is obvious that he has no intention to do so.

(3) When the termination of the right of publication is notified as prescribed under the provision of Paragraph (1) or (2), the right of publication is presumed to have been terminated on the date the owner of the right of publication has received the notification.

(4) In the case of Paragraph (3), the owner of the right of reproduction may at any time make a claim against the owner of the right of publication for restitution or recovery of damages accruing from the suspension of publication of the work.

Article 62 (Distribution of Copies of a Work after Termination of the Right of Publication)

After termination of the right of publication on account of the expiry of the duration of the right or other reasons, the owner of the right of publication shall not distribute copies of the work reproduced within the duration of the right, except in the following cases:

1. Where otherwise stipulated in the contract of establishment; and
2. Where he has already paid royalties to the owner of the right of reproduction for publication within the duration of the right of publication, and he distributes the number of copies equivalent to such payment.

Article 63 (Transfer by Assignment of and Limitations on the Right of Publication, Etc.)

(1) The right of publication may not be transferred by assignment or pledged without the consent of the owner of the right of reproduction.

(2) Article 23, Paragraphs (1) to (3) of Article 25, Articles 26 to 28, Articles 30 to 33, and Paragraphs (2) and (3) of Article 35 shall apply *mutatis mutandis* to the reproduction of works which are the object of the right of publication.

(3) Articles 54, 55, and 55-2 shall apply *mutatis mutandis* to the registration (including the registration of the establishment of the right of publication) of the right of publication. In such cases, the term "copyright register" in Article 55 shall read as "publication right register."

<Amended on April 22, 2009>

CHAPTER 3. NEIGHBORING RIGHTS

SECTION 1. GENERAL RULES

Article 64 (Performances, Phonograms, and Broadcasts Protected) Performances, phonograms and broadcasts satisfying any condition of any of the following Subparagraphs shall be protected under this Act:

1. Performances:

a. Performances conducted by nationals of the Republic of Korea (including legal persons established pursuant to the laws and regulations of the Republic of Korea, and foreign legal persons having their principal offices in the Republic of Korea; hereinafter the same shall apply.);

b. Performances protected under the international treaties to which the Republic of Korea has acceded or which it has ratified;

c. Performances fixed in phonograms as referred to in Subparagraph 2; and

d. Performances transmitted by broadcasts as referred to in Subparagraph 3 (except those

included in sound or visual recordings before transmission).

2. Phonograms:

- a. Phonograms manufactured by nationals of the Republic of Korea;
- b. Phonograms in which sounds have been fixed for the first time in the Republic of Korea;
- c. Phonograms in which sounds have been fixed for the first time in a foreign country party to the treaties to which the Republic of Korea has acceded or which it has ratified and thus protected under such treaties; and
- d. Phonograms protected in accordance with the treaties which the Republic of Korea has ratified or acceded to and of which producers are the nationals of the contracting parties of those treaties (including any legal person established pursuant to the laws and regulations of the contracting party and any legal person having the principal office in the contracting party).

3. Broadcasts:

- a. Broadcasts made by broadcasting organizations which are the nationals of the Republic of Korea;
- b. Broadcasts made from broadcasting facilities located in the Republic of Korea; and
- c. Broadcasts made by broadcasting organizations which are nationals of a foreign country party to treaties to which the Republic of Korea has acceded or which it has ratified, from broadcasting facilities located in such foreign country party, and thus protected under such treaties.

Article 65 (Relationship with Copyright) The Articles in this Chapter shall not to be construed to have effects on copyright.

SECTION 2. RIGHTS OF PERFORMERS

Article 66 (Right to Indicate the Performer's Name) (1) The performer shall have the right to indicate his real name or pseudonym on the performance or copies of his performance .

(2) In the absence of any intention of the performer to the contrary, the person using his performance shall indicate the name or pseudonym of the performer in the same manner as that already adopted by the performer: provided that this shall not apply if such indication is deemed impossible in light of the nature of the performance as well as the purpose and manner of its exploitation.

Article 67 (Right to Preserve the Integrity) The performer shall have the right to preserve the integrity of the content and form of his performance: provided that this shall not apply if alteration of the content and form of his performance is deemed unavoidable in light of the nature of the performance as well as the purpose and manner of its exploitation.

Article 68 (Inalienability of Performer's Moral Rights) The rights prescribed in Articles 66 and 67 (hereinafter referred to as "performer's moral rights") shall belong exclusively to the performer.

Article 69 (Right of Reproduction) Performers shall have the right to reproduce their performances.

Article 70 (Right of Distribution) Performers shall have the right to distribute the copies of

their performances unless the copies of his performance are offered for transaction by means of selling, etc. with the authorization of the performer.

Article 71 (Right of Rental) Notwithstanding the proviso of Article 70, performers shall have the right to rent for profit-making purposes commercial phonograms in which their performances are recorded.

Article 72 (Right of Public Performance) Performers shall have the right to perform their unfixed performances publicly, unless the performances are broadcast performances.

Article 73 (Right of Broadcasting of Performances) Performers shall have the right to broadcast their performances, except those recorded with the authorization of performers.

Article 74 (Right of Interactive Transmission) Performers shall have the right to transmit their works in an interactive manner.

Article 75 (Remuneration by Broadcasting Organizations to Performers) (1) When a broadcasting organization makes a broadcast using commercial phonograms in which performances are recorded, it shall pay reasonable remuneration to the performers: provided that this shall not apply to performers who are foreigners whose countries do not admit the remuneration pursuant to this Paragraph to the performers with the nationality of the Republic of Korea.

(2) Paragraphs (5) to (9) of Article 25 shall apply mutatis mutandis to the payment of remuneration, etc. pursuant to Paragraph (1).

(3) The amount of remuneration which the organization as referred to in Paragraph (2) may claim on behalf of the remuneration right holder shall be determined each year by the agreement between the organization and the broadcasting organization.

(4) If the organization and the broadcasting organization fail to reach an agreement as prescribed pursuant to Paragraph (3), the organization or the broadcasting organization may request conciliation as prescribed by Presidential Decree to the Korea Copyright Commission established under Article 112. <Amended on April 22, 2009>

Article 76 (Remuneration by Digital Sound Transmission Organizations to Performers) (1)

When a digital sound transmission organization transmits performances by using commercial phonograms in which performances are recorded, it shall pay reasonable remuneration to the performers.

(2) Paragraphs (5) to (9) of Article 25 shall apply mutatis mutandis to payment of remuneration, etc. according to Paragraph (1).

(3) The amount of remuneration which the organization as referred to in Paragraph (2) may claim on behalf of the remuneration right holder shall be determined each year by the agreement between the organization and the digital sound transmission organization within a certain period of time set forth by Presidential Decree.

(4) In cases where the organization and the digital sound transmission organization fail to reach an agreement as prescribed pursuant to Paragraph (3), the amount determined and notified by the Minister of Culture, Sports and Tourism shall be paid. <Amended on February 29, 2008>

Article 76-2 (Remuneration by Parties Doing Public Performances Using Commercial

Phonograms to Performers) (1) A party doing a public performance using commercial phonograms in which performances are recorded shall pay reasonable remuneration to the performers appearing in the phonograms: provided that this shall not apply to performers who are foreigners whose countries do not admit the remuneration pursuant to this Paragraph to performers with the nationality of the Republic of Korea.

(2) Paragraphs (5) to (9) of Article 25 and Paragraphs (3) and (4) of Article 76 shall apply *mutatis mutandis* to the payment and amount of remuneration, etc. according to Paragraph (1).

[This Article added on March 25, 2009, came in to force on September 26, 2009]

Article 77 (Joint Performers) (1) If two or more performers perform jointly in a chorus, concert, or drama, etc., the rights of performers (excluding the moral rights of performers) as prescribed under this Section shall be exercised by a representative elected by the joint performers: provided that if such a representative is not elected, the conductor, director, etc. shall exercise the rights.

(2) In exercising the rights of performers in accordance with Paragraph (1), if a solo vocalist or a solo instrument player participated in the performance, the consent of such vocalist or instrument player shall be obtained.

(3) Article 15 shall apply *mutatis mutandis* to the exercise of the moral rights of joint performers.

SECTION 3. RIGHTS OF PRODUCERS OF PHONOGRAMS

Article 78 (Right of Reproduction) Producers of phonograms shall have the right to reproduce

their phonograms.

Article 79 (Right of Distribution) Producers of phonograms shall have the right to distribute their phonograms unless the reproductions of the phonograms are offered for transaction by means of selling, etc. with the authorization of the producers.

Article 80 (Right of Rental) Notwithstanding the proviso of Article 79, producers of phonograms shall have the right to rent commercial phonograms for profit-making purposes.

Article 81 (Right of Interactive Transmission) Producers of phonograms shall have the right to transmit their phonograms in an interactive manner.

Article 82 (Remuneration by Broadcasting Organizations to Producers of Phonograms)

(1) If a broadcasting organization makes a broadcast using commercial phonograms, it shall pay reasonable remuneration to the producers of the phonograms: provided that this shall not apply to producers of phonograms who are foreigners whose countries do not admit the remuneration pursuant to this Paragraph to producers of phonograms with the nationality of the Republic of Korea.

(2) Paragraphs (5) to (9) of Article 25 and Paragraphs (3) and (4) of Article 75 shall apply mutatis mutandis to the payment and amount of remuneration, etc. according to Paragraph (1)

Article 83 (Remuneration by Digital Sound Transmission Organizations to Producers of Phonograms) (1) If a digital sound transmission organization transmits by using phonograms, it

shall pay reasonable remuneration to the producers of the phonograms.

(2) Paragraphs (5) to (9) of Article 25 and Paragraphs (3) and (4) of Article 76 shall apply mutatis mutandis to the payment and amount of remuneration, etc. pursuant to Paragraph (1).

Article 83-2 (Remuneration by Parties Doing Public Performances Using Commercial Phonograms to Producers of Phonograms) (1) A party doing a public performance using

commercial phonograms shall pay reasonable remuneration to the producers of the phonograms : provided that this shall not apply to producers of phonograms who are foreigners whose countries do not admit the remuneration pursuant to this Paragraph to producers of phonograms with the nationality of the Republic of Korea.

(2) Paragraphs (5) to (9) of Article 25 and Paragraphs (3) and (4) of Article 76 shall apply mutatis mutandis to the payment and amount of remuneration, etc. according to Paragraph (1).

[This Article added on March 25, 2009, came in to force on September 26, 2009]

SECTION 4. RIGHTS OF BROADCASTING ORGANIZATIONS

Article 84 (Right of Reproduction) Broadcasting organizations shall have the right to reproduce their broadcasts.

Article 85 (Right of Simultaneous Relay) Broadcasting organizations shall have the right to relay their broadcasts simultaneously.

SECTION 5. DURATION OF NEIGHBORING RIGHTS

Article 86 (Protection Period) (1) The protection period of neighboring rights (excluding moral rights of performers; hereinafter the same shall apply.) shall commence from the date that falls under any of following:

1. When the performance took place, for performances;
2. When the first fixation of sounds was made, for phonograms; and
3. When the broadcast was made, for broadcasts.

(2) Neighboring rights shall continue to subsist for a period of 50 years from the beginning of the year following the date:

1. When the performance took place, for performances;
2. When the phonogram was published, for phonograms: provided that if it has not been made public until the lapse of fifty years following the first fixation, it shall be when the first fixation of sounds was made; and
3. When the broadcast was made, for broadcasts.

SECTION 6. LIMITATIONS, TRANSFER BY ASSIGNMENT, EXERCISE, ETC. OF NEIGHBORING RIGHTS

Article 87 (Limitations on Neighboring Rights) (1) Articles 23 and 24, Paragraphs (1) to (3) of Article 25, Articles 26 to 32, Paragraph (2) of Article 33, and Articles 34, 36 and 37 shall apply *mutatis mutandis* to the exploitation of performances, phonograms, or broadcasts which are the objects of neighboring rights. <Amended on April 22, 2009>

(2) If a digital sound transmission organization transmits performances using phonograms where performances are recorded pursuant to Paragraph (1) of Article 76 and Paragraph (1) of Article 83, it may make an ephemeral reproduction of the phonograms where performances are recorded by the means of its own facilities. In this case, Paragraph (2) of Article 34 shall apply *mutatis mutandis* to the period of keeping such reproductions. <Added on April 22, 2009>

Article 88 (Transfer by Assignment, Exercise, Etc. of Neighboring Rights) The provision of Paragraph (1) of Article 45 shall apply *mutatis mutandis* to the transfer by assignment of neighboring rights; the provision of Article 46 to the authorization to exploit performances, phonograms, and broadcasts; the provision of Article 47 to the right of pledge established on neighboring rights; and the provision of Article 49 to the expiry of neighboring rights, respectively.

Article 89 (Exploitation of Performances, Phonograms, and Broadcasts under Statutory License) Articles 50 through 52 shall apply *mutatis mutandis* to the authorization to exploit performances, phonograms, and broadcasts.

Article 90 (Registration of Neighboring Rights) Articles 53 through 55 and Article 55-2 shall apply *mutatis mutandis* to the registration of neighboring rights. In such cases, the term “copyright register” in Article 55 shall read as “neighboring rights register.” <Amended on April 22, 2009>

CHAPTER 4. PROTECTION OF DATABASE PRODUCERS

Article 91 (Databases under Protection) (1) Any database of a person who falls under any of the following categories shall be protected under this Act:

1. Nationals of the Republic of Korea; and
2. Foreigners protected by treaties that the Republic of Korea has acceded to or ratified in connection with a database protection regime.

(2) Even if foreigners' databases are protected under foregoing Paragraph (1), their protection under said treaties and this Act may be correspondingly restricted if the foreigners' countries do not protect the databases of the nationals of the Republic of Korea.

Article 92 (Exclusion of Application) The provisions of this Chapter shall not apply to databases which fall under any of the following:

1. Computer programs which are used for production or renewal, etc., or operation of databases; and
2. Databases produced or renewed in order to make wire or wireless communications technically possible.

Article 93 (Rights of Database Producers) (1) A database producer shall retain the rights to the reproduction, distribution, broadcasting, or interactive transmission (hereinafter referred to as "reproduction, etc." in this Article) of all or a substantial part of the appropriate database.

(2) The individual subject matters of a database shall not be regarded as a substantial part of the database as provided in foregoing Paragraph (1): provided that even in the case of reproduction, etc. of any individual subject matter or a part of a database which does not constitute a substantial part thereof, it shall be regarded as reproduction etc. of a substantial

part of the database if such reproduction, etc. is done repetitively or systematically for a specific purpose in such a manner that conflicts with the normal use of the database or unreasonably prejudices the database producer's interests.

(3) Protection under this Chapter shall be without prejudice to the copyrights of the subject matters that form constituent parts of a database and other rights protected under this Act.

(4) Protection under this Chapter shall not extend to the subject matters that form constituent parts of a database.

Article 94 (Limitations on Rights of Database Producers) (1) Foregoing Articles 23, 28 through 34, 36 and 37 shall apply *mutatis mutandis* to the use of a database which is the object of the rights of a database producer.

(2) In any of the following cases, any person may reproduce, distribute, broadcast, or interactively transmit all or a substantial part of a database: provided that said provision shall not apply in those cases where it conflicts with normal use of such database:

1. In the case of use of a database for educational, academic, or research purposes: provided that said provision shall not apply in those cases where such database is used for a profit-making purpose; and

2. In the case of use of a database for the purpose of reporting current events.

Article 95 (Protection Period) (1) Rights of a database producer shall commence from the date when the production of a database is completed, and continue to subsist for a period of five years from the beginning of the year immediately following such commencement.

(2) In those cases where a substantial amount of investment in terms of human or material

resources is made for renewal etc. of a database, the rights of a database producer in connection with the appropriate portion of such database shall commence from the date of such renewal etc. and continue to subsist for a period of five years from the beginning of the year immediately following such commencement.

Article 96 (Transfer by Assignment, Exercise, Etc., of Rights of Database Producers) The proviso of Article 20 shall apply *mutatis mutandis* to the offer of a database for transaction, the provision of Paragraph (1) of Article 45 to the transfer by assignment of rights of database producers, the provision of Article 46 to the authorization to use databases, the provision of Article 47 to the exercise of the right of pledge regarding rights of database producers, the provision of Article 48 to the exercise of rights of database producers in joint databases, and the provision of Article 49 to the expiry of rights of database producers, respectively.

Article 97 (Exploitation of Databases under Statutory License) Foregoing Articles 50 and 51 shall apply *mutatis mutandis* to the use of a database.

Article 98 (Registration of Rights of Database Producers) Foregoing Articles 53 through 55 and Article 55-2 shall apply *mutatis mutandis* to the registration of rights of database producers. In such cases, the term “copyright register” in Article 55 shall read as “register of rights of database producers.” <Amended on April 22, 2009>

CHAPTER 5. SPECIAL PROVISIONS CONCERNING CINEMATOGRAPHIC WORKS

Article 99 (Cinematization of Works) (1) If the owner of author's property rights authorizes a person to cinematize his work, it shall be presumed that such authorization includes each of the following rights, unless otherwise stipulated :

1. To dramatize a work for the production of a cinematographic work;
2. To publicly present a cinematographic work for the purpose of public presentation;
3. To broadcast a cinematographic work for the purpose of broadcasting;
4. To interactively transmit a cinematographic work for the purpose of interactive transmission;
5. To reproduce and distribute a cinematographic work for its original purpose; and
6. To use the translation of a cinematographic work in the same way as applied to such cinematographic work.

(2) If the owner of author's property rights authorizes a person to exploit his work by means of cinematization, unless otherwise stipulated, he may authorize, after the lapse of five years from the date of his authorization, a cinematization of the work in another form of cinematographic work.

Article 100 (Rights in Cinematographic Works) (1) If a person, who has agreed with a producer of a cinematographic work to cooperate in the production of a cinematographic work, obtains the copyright for such cinematographic work, it shall be presumed that the rights necessary for the use of such cinematographic work are transferred to the producer of such cinematographic work, unless otherwise stipulated.

(2) Author's property rights in a novel, play, work of art, or musical work used for the production of a cinematographic work shall not be affected by the provision of Paragraph (1).

(3) As regards the use of a cinematographic work regarding a performer who has agreed with a

producer of such cinematographic work to cooperate for the production of such cinematographic work, it shall be presumed that the right of reproduction pursuant to Article 69, the right of distribution pursuant to Article 70, the right of broadcasting pursuant to Article 73, and the right of interactive transmission pursuant to Article 74 are transferred to the producer of such cinematographic work, unless otherwise stipulated.

Article 101 (Rights of Producers of Cinematographic Works) (1) Rights necessary for the use of a cinematographic work, which are transferred to the producer of a cinematographic work from the person who has agreed to cooperate for the production of such cinematographic work, shall represent the rights to reproduce, distribute, publicly present, broadcast, interactively transmit, or use by other means such cinematographic work, and may be transferred or be the object of a pledge.

(2) Rights that are transferred to the producer of a cinematographic work from a performer shall represent the rights to reproduce, distribute, broadcast, or interactively transmit such cinematographic work, and may be transferred or be the object of pledge.

CHAPTER 5-2 SPECIAL PROVISIONS CONCERNING PROGRAMS <Added on April 22, 2009>

Article 101-2 (Objects of Protection) This Act shall not apply to the following matters which are used for making a program:

1. Program Language: Characters, signs and systems as means to express a program;

2. Rule: A specific convention on the usage of programming language in a specific program;

and

3. Algorithm: A method of combining instructions and commands in a program

[This Article added on April 22, 2009]

Article 101-3 (Limitations on Author's Property Rights in Programs) (1) When falling under any of the following Subparagraphs, programs already made public may be reproduced or distributed to the extent deemed necessary for the corresponding purpose: provided that this shall not apply if such reproduction or distribution unreasonably prejudices the interests of the owner of author's property rights in those programs in the light of the types and usage of the programs, relative importance occupied by the reproduced portion in the original programs, number of copies, etc:

1. Reproduction for judicial proceedings or investigations;

2. When a person who is responsible for education at a school under the Early Childhood Education Act, the Elementary and Secondary Education Act, or the Higher Education Act or an educational institution established under other acts (only those educational institutions of which scholastic ability is recognized for admission to higher-level schools or which grant academic degrees) reproduces or distributes programs for the purpose of classroom education ;

3. Reproduction to be included in textbooks for the purpose of education at schools under the Elementary and Secondary Education Act and their equivalents;

4. Reproduction for personal use in limited places like homes (excluding cases for profit-making purposes);

5. Reproduction or distribution for entrance examinations to schools under the Elementary and Secondary Education Act and the Higher Education Act and their equivalents or other examinations or inspections of knowledge and skills (excluding cases for profit-making purposes); and

6. Reproduction to research, study, and test the functions of a program to verify the ideas and principles constituting the basis of the program (This shall be limited to cases of parties with a justifiable authority to use the program).

(2) Parties intending to include a program in textbooks under Subparagraph 3 of Paragraph (1) shall pay the owner of author's property rights remuneration according to the criteria determined and notified by the Minister of Culture, Sports and Tourism. Paragraphs (5) to (9) of Article 25 shall apply mutatis mutandis to payment of remuneration.

[This Article added on April 22, 2009]

Article 101-4 (Decompilation of Program Codes) (1) When it is difficult to gain information necessary for interoperability and it is inevitable to gain such information, parties using programs with a justifiable authority or parties acquiring permission from such parties may decompile program codes for parts necessary for interoperability without acquiring permission from the owner of author's property rights of such programs.

(2) Information gained through decompilation of program codes as prescribed in Paragraph (1) shall not be used in any of the following cases:

1. When using such for a purpose other than interoperability or providing to a third party; and

2. When such is used in developing, producing, and selling programs where expressions are practically similar to the program subject to the decompilation of program codes or infringing on other program copyrights.

[This Article added on April 22, 2009]

Article 101-5 (Reproduction for Keeping by a Legitimate User, Etc.) (1) Parties which own and use copies of programs with justifiable authority may reproduce the copies to the extent necessary to protect against destruction, damage, degradation, etc. of such copies.

(2) When parties which possess and use copies of a program lose the right to possess and use such copies, they shall destroy reproductions made pursuant to Paragraph (1) in the absence of any intention of the owner of author's property rights of the program to the contrary: provided that this shall not apply if the right to own and use program reproductions is lost due to loss of such copies.

[This Article added on April 22, 2009]

Article 101-6 (Exclusive Publication Rights of Programs) (1) The owner of author's property rights of a program may establish a right for a person to exclusively reproduce, distribute, or interactively transmit the work (hereinafter referred to as "exclusive publication right of a program").

(2) The person for whom the exclusive publication right of a program (hereinafter referred to as "owner of the exclusive publication right of a program") pursuant to Paragraph (1) has been established shall have the right to exercise the exclusive publication right of a program to the extent prescribed by the contract of establishment.

(3) If the right of pledge is established on the right of reproduction of a program, the owner of author's property rights of the program may establish the exclusive publication right of a program only with the authorization of the owner of the right of pledge.

(4) The owner of the exclusive publication right of a program shall not establish the right of pledge on the exclusive publication right of a program or transfer by assignment such to a third party without the consent of the owner of author's property rights of the program.

(5) The exclusive publication right of a program shall continue to subsist for a period of three years from the date of making the contract of establishment, unless there is a special agreement.

(6) Articles 54, 55, and 55-2 shall apply *mutatis mutandis* to the registration of the exclusive publication right of a program.

[This Article added on April 22, 2009]

Article 101-7 (Program Escrow) (1) The owner of author's property rights of a program and a party authorized to exploit the program may by reaching agreement with a party designated by Presidential Decree (hereinafter referred to as "depositee" in this Article) deposit the source code and technical information of the program, etc. to the depositee.

(2) A party authorized to exploit the program may demand the depositee provide the source code and technical information of the program, etc. when one of the reasons set forth under the agreement of Paragraph (1) occurs.

[This Article added on April 22, 2009]

CHAPTER 6 LIMITATIONS ON THE LIABILITY OF ONLINE SERVICE PROVIDERS

Article 102 (Limitations on the Liability of Online Service Providers) (1) In connection with the provision of services by an online service provider related to reproduction and interactive transmission of works, etc., the liability of such online service provider for infringement by other persons on copyrights or other rights protected under this Act may be reduced or waived in those cases where such online service provider prevents or stops reproduction and transmission thereof when made aware that copyrights or other rights protected under this Act would be infringed upon due to the reproduction and interactive transmission of works, etc. by the other persons.

(2) In connection with the provision of services by an online service provider related to reproduction and interactive transmission of works, etc., such online service provider's liability for infringement by other persons on copyrights or other rights protected under this Act shall be waived in those cases where such online service provider attempts to prevent or stop reproduction and interactive transmission thereof when made aware that copyrights or other rights protected under this Act would be infringed upon due to the reproduction and interactive transmission of works, etc. by the other persons, but it is technically impossible to do so.

Article 103 (Cease of Reproduction or Interactive Transmission) (1) Any person who claims that his copyrights or other rights protected under this Act are infringed upon due to the reproduction and interactive transmission of works, etc. by the use of services provided by an online service provider (hereinafter referred to as "claimant" in this Article) may request such online service provider to stop the reproduction and interactive transmission of such works, etc. by proving such fact.

(2) In those cases where it is requested to stop reproduction and interactive transmission pursuant to foregoing Paragraph (1), an online service provider shall immediately stop the reproduction and interactive transmission of such works, etc. and give notice thereof to the person who reproduces and interactively transmits such works, etc. (hereinafter referred to as “reproducer/interactive transmitter”) and the claimant of such request.

(3) In those cases where a reproducer/interactive transmitter, who is notified pursuant to foregoing Paragraph (2), proves that his reproduction and interactive transmission is based on legitimate rights and requests resumption of the reproduction and interactive transmission of works, etc., the online service provider shall promptly notify the claimant of such request for resumption and a scheduled date of resumption, and resume the reproduction and interactive transmission on such scheduled date.

(4) An online service provider shall designate a person who will be responsible for receiving requests to stop or resume reproduction and interactive transmission pursuant to foregoing Paragraphs (1) and (3) (hereinafter referred to as “receiver” in this Article) and make a public announcement thereof to allow those who use his facilities or services to easily have knowledge thereof.

(5) In those cases where an online service provider makes a public announcement pursuant to foregoing Paragraph (4), and stops or resumes the reproduction and interactive transmission of works, etc. pursuant to foregoing Paragraphs (2) and (3), such online service provider’s liability for the infringement by other persons on copyrights and other rights protected under this Act as well as the damages incurred upon the reproducer/interactive transmitter may be reduced or waived: provided that said provision shall not apply to any liability incurred from the time when such online service provider gains knowledge of the fact that copyrights and other rights

protected under this Act are infringed upon due to reproduction and interactive transmission of works, etc. by other persons to the time when a request to stop reproduction and interactive transmission pursuant to foregoing Paragraph (1) is made.

(6) Any person who requests that the reproduction and interactive transmission of works, etc. be stopped or resumed in accordance with foregoing Paragraphs (1) and (3) without any legitimate rights shall make compensation for any damages incurred thereby.

(7) The matters necessary for proving, stop, notification, resumption of reproduction and interactive transmission, designation of a receiver, public announcement, etc. pursuant to foregoing Paragraphs (1) to (4) shall be set forth by Presidential Decree. In such case, the Minister of Culture, Sports and Tourism shall engage in prior consultation with the heads of the appropriate central administrative authorities. <Amended on February 29, 2008>

Article 104 (Liability, Etc. of Special Types of Online Service Providers) (1) Online service providers whose main purpose is to enable different people to interactively transmit works, etc. among themselves by computers (hereinafter referred as “special types of online service providers”) shall take necessary measures such as technical measures for blocking illegal interactive transmission of works, etc. upon the requests of rights holders. In such cases, matters related to requests of rights holders and necessary measures shall be set forth by Presidential Decree. <Amended on April 22, 2009>

(2) The Minister of Culture, Sports and Tourism may determine and notify the scope of special types of online service providers in accordance with Paragraph (1). <Amended on February 29, 2008>

CHAPTER 7. COPYRIGHT MANAGEMENT SERVICES

Article 105 (Permit, Etc. for Copyright Management Services) (1) Any person who intends to engage in copyright trust services shall obtain a permit from the Minister of Culture, Sports and Tourism as prescribed by Presidential Decree, and any person who intends to engage in copyright agency or brokerage services shall report to the Minister of Culture, Sports and Tourism as prescribed by Presidential Decree. <Amended on February 29, 2008>

(2) Any person who intends to engage in copyright trust services pursuant to Paragraph (1) shall satisfy the following conditions, draw up the rules of copyright trust services as determined by Presidential Decree, and submit them with an application for permit for copyright trust services to the Minister of Culture, Sports and Tourism. The organization shall <Amended on February 29, 2008>:

1. Consist of the rights holders with regard to works, etc.;
2. Not be for purpose of profit making; and
3. Have ample capability to carry out its duties including collecting and distributing royalties.

(3) Any person falling under any of the following categories shall not be eligible for copyright trust services or copyright agency or brokerage services (hereinafter referred to as "copyright management services") under Paragraph (1):

1. Any person who has no competence or who has limited competence as declared by a court;
2. Any person whose legal capacity has not been rehabilitated following the declaration of bankruptcy;
3. Any person for whom one year has not passed following the execution of criminal penalties of a fine or more severe punishment, or the final decision to suspend the execution of a sentence

for violation of this Act, or who is on probation following a suspended sentence;

4. Any person who has no domicile in the Republic of Korea; and

5. Any legal person or organization in which a person falling under any of foregoing Subparagraphs 1 to 4 is the representative or a member of the board.

(4) Any person who has obtained a permit for copyright management services, or who has reported to the Minister of Culture, Sports and Tourism in accordance with Paragraph (1) (hereinafter referred to as "copyright management service provider") may collect fees for his services from the owner of author's property rights or other interested persons.

(5) The rate and amount of fees as prescribed under Paragraph (4) and the rate and amount of royalties that copyright management service providers may collect from users shall be determined by the copyright management service providers subject to the approval of the Minister of Culture, Sports and Tourism: provided that this shall not apply to a person who has reported to the Minister of Culture, Sports and Tourism as a copyright agent or broker.

<Amended on February 29, 2008>

(6) In the case of the approval as provided under Paragraph (5), the Minister of Culture, Sports and Tourism shall ask for deliberation by the Korea Copyright Commission as prescribed under Article 112, and the Minister may set the effect period of approval or may approve the application after correcting the contents thereof, if necessary. <Amended on February 29, 2008 and April 22, 2009>

(7) In the case where an application for approval with regard to the rate and amount of royalties is submitted or where the approval for such application is made in accordance with Paragraph (5), the Minister of Culture, Sports and Tourism shall notify the contents thereof pursuant to Presidential Decree. <Amended on February 29, 2008>

(8) The Minister of Culture, Sports and Tourism may amend the contents approved pursuant to Paragraph (5) in order to protect the rights and interests of the owner of author's property rights and other interested persons or to promote convenient use of works, etc. <Amended on February 29, 2008>

Article 106 (Obligation of Copyright Trust Service Providers) (1) Copyright trust service providers shall draw up quarterly lists of works, etc. managed by them in accordance with Presidential Decree in a book or electronic form to be offered to anyone, at least, during business hours.

(2) When requested by a user in writing, copyright trust service providers shall, if there is no justifiable reason not to do so, provide information, prescribed by Presidential Decree as necessary for concluding exploitation contracts of works, etc. managed by the copyright trust service providers, in writing within a reasonable period of time.

Article 107 (Claim for Perusal of Documents) Copyright trust service providers may claim to peruse necessary documents to estimate royalties on works, etc. concerned against those who exploit for a profit-making purpose the works, etc. managed by the copyright trust service providers. In this case, the exploiter shall comply with the claim if there is no justifiable reason not to do so.

Article 108 (Supervision) (1) The Minister of Culture, Sports and Tourism may demand a copyright management service provider to submit a report on his business concerning copyright management services. <Amended on February 29, 2008>

(2) In order to promote the protection of rights and interests of authors and the convenient use of works, the Minister of Culture, Sports and Tourism may issue necessary orders concerning copyright management services. <Amended on February 29, 2008>

Article 109 (Revocation, Etc. of a Permit) (1) The Minister of Culture, Sports and Tourism may order the suspension of business for a specified period of not longer than six months, if a copyright management service provider commits any of the following acts <Amended on February 29, 2008>:

1. Receives fees in excess of the approved rate and amount in accordance with the provision of Paragraph (5) of Article 105;
2. Receives royalties incompatible with the approved rate and amount in accordance with the provision of Paragraph (5) of Article 105;
3. Fails to submit a report as prescribed under Paragraph (1) of Article 108 without any justifiable reason or makes a false report; and
4. Receives an order as prescribed under Paragraph (2) of Article 108, but fails to fulfill the order without any justifiable reason.

(2) The Minister of Culture, Sports and Tourism may revoke the permit for copyright management services, or order closure of the business if a copyright management service provider commits any of the following acts <Amended on February 29, 2008>:

1. Obtains the permit or reports to the Minister of Culture, Sports and Tourism by falsification or other unlawful means; and
2. Continues to do business after receiving an order of suspension under Paragraph (1).

Article 110 (Hearing) If the Minister of Culture, Sports and Tourism intends to revoke the permit for or orders closure of copyright management services in accordance with Paragraph (2) of Article 109, he shall hold a hearing. <Amended on February 29, 2008>

Article 111 (Surcharge) (1) In the case where a copyright management service provider commits any of the acts prescribed in Paragraph (1) of Article 109 and therefore is subject to the order of suspension of business, the Minister of Culture, Sports and Tourism may impose and collect a surcharge of not more than KRW 50 million from the copyright management service provider in return for the order of suspension of business concerned. <Amended on February 29, 2008>

(2) In the case where the person who was imposed a surcharge in accordance with Paragraph (1) fails to pay it by the deadline for payment, the Minister of Culture, Sports and Tourism shall collect said surcharge in the manner of dispositions on default of national taxes. <Amended on February 29, 2008>

(3) The surcharge collected pursuant to Paragraphs (1) and (2) may be used to establish sound use of works by the collector.

(4) The amount of surcharges concerning the types and extent of violation which is subject to surcharge in accordance with Paragraph (1) and the necessary matters with respect to the procedure of using surcharges, etc. pursuant to Paragraph (3) shall be set forth by Presidential Decree.

CHAPTER 8. KOREA COPYRIGHT COMMISSION <Amended on April 22, 2009>

Article 112 (Establishment of the Korea Copyright Commission) (1) In order to deliberate matters concerning copyrights and other rights protected under this Act (hereinafter referred to as “copyrights” in this Chapter), mediate and conciliate disputes concerning copyrights (hereinafter referred to as “disputes”), and conduct activities necessary for protection and fair exploitation of copyrights, the Korea Copyright Commission (hereinafter referred to as the “Commission”) shall be established.

(2) The Commission shall be a legal person.

(3) The provisions about incorporated foundations under the Civil Act shall apply mutatis mutandis to matters about the Commission which are not prescribed in this Act. In such case, members of the Commission shall be regarded as directors.

(4) Anyone other than the Commission shall not use the name of the Korea Copyright Commission.

[Whole text amended on April 22, 2009]

Article 112-2 (Organization of the Commission) (1) The Commission shall consist of twenty or more but twenty five or fewer members including one chairman and two vice chairmen.

(2) Members shall be commissioned by the Minister of Culture, Sports and Tourism among persons falling under any of the following categories and the chairman and vice chairmen shall be elected from among the members. In this case, the Minister of Culture, Sports, and Tourism shall ensure the number of members who represent the interests of owners of the rights protected under this Act and that of members who represent the interests of users of such rights are balanced, and may request the organizations of rights holders or users, etc. from each area to recommend members:

1. Who holds a bachelor's or higher degree in an area related to copyrights and has experience as an associate professor or equivalent at a university or authorized research organization;
2. Who is qualified as a lawyer or currently holds the position as a judge or a public prosecutor;
3. Who is experienced in areas of copyrights or the culture industry as a public official at a Class 4 or higher position or an employee at an equivalent position in a public institution;
4. Who is currently or has been a member of the board of the organizations in areas of copyrights or the culture industry; and
5. Who has knowledge and experience in other areas related to copyrights and the culture industry.

(3) The term of members shall be a period of three years, and the members may serve for more than one term: provided that the term of members who are nominated to a designated position shall be that during which they stay on the position.

(4) If a vacancy has occurred in the membership of the Commission, a substitute shall be commissioned in the same manner as prescribed in accordance with Paragraph (2) and shall serve for the remainder of his predecessor's term. A substitute may not be commissioned if the total number of incumbent members is twenty or more.

(5) The Commission may set up a sub-commission for each area to effectively carry out the tasks of the Commission. Any decision by a sub-commission on a matter delegated by the Commission shall be regarded as a decision by the Commission.

[This Article added on April 22, 2009]

Article 113 (Functions) The Commission shall perform the following functions <Amended on February 29, 2008 and April 22, 2009>:

1. To mediate and conciliate disputes;
2. To deliberate on matters concerning the rates and amounts of fees and royalties for the copyright management service providers prescribed under Paragraph (6) of Article 105 and matters referred to the Commission by the Minister of Culture, Sports and Tourism or jointly by three or more members;
3. To establish sound use of works, etc. and promote fair use of works;
4. To engage in international cooperation to protect copyrights;
5. To conduct researches about, education in, and raise public awareness of copyrights;
6. To assist in establishing copyright policy;
7. To assist in establishing policy regarding technological protection measures and right management information;
8. To establish and operate an information management system for provision of copyright information;
9. To conduct appraisal on matters concerning infringements of copyrights, etc.;
10. To make recommendations for correction for online service providers and request the Minister of Culture, Sports and Tourism to issue corrective orders;
11. To perform duties provided for as the duties of the Commission under laws or those delegated to the Commission; and
12. To perform other duties entrusted by the Minister of Culture, Sports and Tourism.

Article 113-2 (Mediation) (1) A party wishing to receive mediation for a dispute may request mediation by submitting a mediation application to the Commission.

(2) When the Commission receives a request for mediation under Paragraph (1), the chairman shall designate mediation member(s) from among the members of the Commission to perform mediation.

(3) Mediation member(s) may stop mediation when resolution of a dispute through mediation is deemed impossible.

(4) If there is an application for conciliation according to this Act regarding a dispute under mediation, the ongoing mediation shall be deemed suspended.

(5) When mediation is concluded, the mediation member(s) shall write up a mediation letter and affix their signatures and seals to the letter along with the appropriate parties.

(6) The necessary matters regarding mediation application and procedures shall be set forth by Presidential Decree.

[This Article added on April 22, 2009]

Article 114 (Conciliation Division) (1) In order to effectively carry out the affairs of dispute conciliation of the Commission, a conciliation division consisting of either one or three or more members, including one qualified as a lawyer, shall be established in the Commission.

(2) The necessary matters regarding organization and administration of the conciliation division pursuant to Paragraph (1) shall be set forth by Presidential Decree.

Article 114-2 (Application for Conciliation, Etc.) (1) A party wishing to receive conciliation for a dispute may request conciliation of the dispute by submitting a conciliation application indicating the purpose and cause of the request to the Commission.

(2) Dispute conciliation under Paragraph (1) shall be performed by the conciliation division under Article 114.

[This Article added on April 22, 2009]

Article 115 (Closed Meetings) The conciliation process shall be closed in principle: provided that the head of the conciliation division may permit a person to attend a conciliation meeting whom he recognizes as eligible with the consent of the persons concerned.

Article 116 (Limitation on Invoking Statements) Statements made by the persons concerned or interested persons during the course of conciliation shall not be invoked during the legal or arbitration proceedings.

Article 117 (Conclusion of a Conciliation) (1) The conciliation shall be concluded by writing the terms of agreement between the parties in a protocol.

(2) The protocol as referred to in Paragraph (1) shall have the same effect as a judicial conciliation, unless it is concerned with matters which are outside the capacity of the parties to dispose of them.

Article 118 (Expenses of Conciliation, Etc. <Amended on April 22, 2009>) (1) The expenses of conciliation shall be borne by the requesting party: provided that if the conciliation is reached, the expenses shall be borne by both parties in equal shares, unless otherwise stipulated.

(2) The necessary matters for request and procedures of conciliation and payment methods of conciliation expenses shall be set forth by Presidential Decree. <Added on April 22, 200>

(3) The amount of conciliation expenses referred to in Paragraph (1) shall be determined by the Commission. <Amended on April 22, 2009>

Article 119 (Appraisal) (1) The Commission may conduct the appraisals in any of the following cases <Amended on April 22, 200>:

1. If requested by courts, investigative institutions, etc. for the purpose of trials or investigations to conduct the appraisals on matters concerning infringements of copyrights, etc.; and

2. If requested by both parties in dispute conciliation to conduct the appraisals on programs, electronic information about programs, etc. for dispute conciliation under Article 114-2.

(2) The necessary matters concerning procedures and methods of conducting the appraisal pursuant to Paragraph (1) shall be set forth by Presidential Decree.

(3) If the Commission conducts the appraisal in accordance with Paragraph (1), it may receive appraisal fees, and the amount of fees shall be determined by the Commission.

Article 120 (Copyright Information Center) (1) In order to effectively perform the duties prescribed in Subparagraphs 7 and 8 of Article 113, the Copyright Information Center shall be established in the Commission. <Amended on April 22, 2009>

(2) The necessary matters for operation of the Copyright Information Center shall be set forth by Presidential Decree. <Added on April 22, 2009>

Article 121 Deleted <April 22, 2009>

Article 122 (Subsidy for Expenses, Etc.) (1) The national government may subsidize or cover

part of the expenses of the operation of the Commission within limits of budget. <Amended on April 22, 2009>

(2) An individual, a legal person, or an organization may donate money or other properties to the Commission in order to support the conduct or carrying out of its duties prescribed under Subparagraphs 3, 5, and 8 of Article 113 of the Act.

(3) The donation made pursuant to Paragraph (2) shall be managed in a separate account and matters concerning to use of the donation shall be subject to the approval of the Minister of Culture, Sports and Tourism. <Amended on February 29, 2008>

CHAPTER 9. REMEDIES FOR INFRINGEMENT OF RIGHTS

Article 123 (Request of injunctions, Etc.) (1) Any person who has a copyright or other rights protected under this Act (excluding rights to be remunerated under Articles 25, 31, 75, 76, 76-2, 82, 83, and 83-2; hereinafter the same shall apply to this Article.) may demand a person infringing on his rights to cease such act and demand a person likely to infringe on his rights to take preventive measures or to provide a security for compensation for damages. <Amended on March 25, 2009>

(2) If a person who has a copyright or other rights protected under this Act makes a demand in accordance with Paragraph (1), he may demand the destruction of the goods made by the act of infringement or other necessary measures.

(3) In the cases of Paragraphs (1) and (2), or in the case where a criminal indictment under this Act has been filed, on a application of a plaintiff or accuser, the court may, with or without imposing provision of a security, issue an order to temporarily cease the act of infringement,

seize the goods made by the act of infringement, or take other necessary measures.

(4) In the case of Paragraph (3) where a judgment final and conclusive was made that no infringement of a copyright and other rights protected under this Act has occurred, the applicant shall pay compensation for the damages caused by his application.

Article 124 (Acts Deemed as Infringement) (1) Any act that falls under any of the following shall be deemed an infringement of copyrights or other rights protected under this Act <Amended on April 22, 2009>:

1. The importation into the Republic of Korea, for the purpose of distribution therein, of goods which would constitute an infringement of copyrights or other rights protected under this Act if they were made in the Republic of Korea at the time of such importation;

2. The possession, for the purpose of distribution, of goods produced by any act that constitutes an infringement of copyrights or other rights protected under this Act (including those imported as provided in foregoing Subparagraph 1) with the knowledge of such infringement; and

3. The use for business of copies of a program produced by infringing on the copyright of the program (including imported objects under Subparagraph 1) by a party who acquired it with the knowledge of such infringement.

(2) Any act of providing, manufacturing, importing, transferring, lending, or interactively transmitting technologies, services, products, devices, or components thereof for the primary purpose of circumventing technological protection measures for copyrights or other rights protected under this Act by such means as eliminating, modifying, or bypassing such technological protection measures without legitimate rights to do so shall be deemed an infringement of copyrights or other rights protected under this Act.

(3) Any act conducted without legitimate rights with the knowledge or negligent ignorance of the fact that an infringement on copyrights or other rights protected under this Act is caused or concealed that falls under any of the following shall be deemed an infringement on copyrights or other rights protected under this Act: provided that this paragraph shall not apply to those cases where such act is deemed unavoidable for technical reasons, or such act is inevitable in the light of the nature of works, etc. and the purpose, manner, etc. of the use thereof:

1. Any act of intentionally eliminating, modifying, or falsely adding right management information in an electronic format; and
2. Any act of distributing, publicly performing, publicly transmitting, or importing for the purpose of distribution of the original or copies of works, etc. with the knowledge of the fact that right management information in an electronic format has been eliminated, modified, or falsely added.

(4) Any act of using a work in a manner defaming the honor of its author shall be deemed an infringement of his moral rights.

Article 125 (Claim for Damages) (1) Where the owner of author's property rights or other rights (excluding author's and performer's moral rights) protected under this Act (hereinafter referred to as "owner of author's property rights, etc.") claims compensation for damages that he sustained by the act of infringement from a person who has infringed on his rights intentionally or negligently, the amount of gain shall be presumed to be the amount of damages that the owner of author's property rights, etc. sustained, if the infringer has made a gain by his act of infringement.

(2) Where the owner of author's property rights, etc., claims compensation for damages that he sustained by the act of infringement from a person who has infringed on his rights intentionally

or negligently, the amount which he would normally be entitled to receive by exploiting his rights may be claimed as the amount of damages sustained by the owner of author's property rights, etc.

(3) Notwithstanding Paragraph (2), if the amount of damages that the owner of author's property rights, etc. sustained exceeds the amount of money as prescribed in Paragraph (2), he may also claim the amount in excess as compensation for the damages.

(4) Any person who infringes upon registered copyrights, publication rights, exclusive publication rights of programs, neighboring rights, or rights of database producers shall be presumed to have been negligent in his act of infringement. <Amended on April 22, 2009>

Article 126 (Presumption of the Amount of Damages) In those cases where damages are recognized but difficult to estimate as provided in foregoing Article 125, the court may set a reasonable amount of damages by taking into consideration the gist of arguments and the results of examination of evidence.

Article 127 (Right to Demand For Restoration of Honor, Etc.) An author or a performer may demand a person who has infringed on his author's or performer's moral rights intentionally or negligently to take measures necessary to restore his honor or reputation in return for or together with compensation for damages.

Article 128 (Protection of Moral Interests after the Death of an Author) After the death of an author, his bereaved family (the surviving spouse, children, parents, grand children, grand parents, or brothers and sisters) or the executor of his will may demand remedies prescribed

under Article 123 from a person who has violated or is likely to violate the provision of Paragraph (2) of Article 14 with respect to the work concerned, or, demand remedies prescribed under Article 127, including restoration of his honor or reputation from a person who has infringed on author's moral rights intentionally or by negligently, or who violated the provision of Paragraph (2) of Article 14.

Article 129 (Infringement with Respect to a Joint Work) Each author of, or each owner of author's property rights in a joint work shall be entitled to make, without the consent of the other authors or owners of author's property rights, the demand prescribed under Article 123, or demand for compensation for damages under Article 125 to his share in a joint work against infringement of author's property rights.

CHAPTER 10. SUPPLEMENTARY PROVISIONS

Article 130 (Delegation and Entrustment of Authority) The Minister of Culture, Sports and Tourism may delegate a part of the authority pursuant to this Act to the Special Metropolitan City Mayor and any other Metropolitan City Mayor, and the governors of Do and Special Self-Governing Do or entrust such to the Commission or copyright related organizations, as prescribed by Presidential Decree. <Amended on February 29, 2008 and April 22, 2009>

Article 131 (Legal Fiction as Public Officials in the Application of Penal Provisions) The members and staff of the Commission shall be deemed as public officials if Articles 129 through 132 of the Criminal Act are applied to them.

Article 132 (Fees) Anyone who applies for the particulars falling under any of the following pursuant to this Act shall pay fees as prescribed by the Ordinance of the Minister of Culture, Sports and Tourism <Amended on February 29, 2008 and April 22, 2009>:

1. A person who applies for approval for statutory license pursuant to Articles 50 to 52 (including those cases where the provisions herein apply *mutatis mutandis* in accordance with Articles 89 and 97);
2. A person who applies for registrations (including those cases where the provisions herein apply *mutatis mutandis* in accordance with Paragraph (3) of Article 63, Articles 90 and 98, and Paragraph (6) of Article 101-6), modifications of the registered matters, perusal of registers, and issuance of copies of registers pursuant to Article 53 to 55; and
3. A person who applies for permission for or reports copyright management services pursuant to Article 105.

Article 133 (Collection, Destruction, and Deletion of Illegal Copies) (1) The Minister of Culture, Sports and Tourism, the Special Metropolitan City Mayor, any other Metropolitan City Mayor, the Governors of Do and Special Self-Governing Do, or the head of the Si/Gun and the head of the Gu(the head of autonomous Gu) may direct competent public officials to collect, destroy, or delete copies (excluding those copies interactively transmitted through information and telecommunications networks) infringing on copyrights and other rights protected under this Act or tools, devices, information and programs that are made for the purpose of circumventing technological protection measures for works, etc., if they are found, in accordance with the

procedures and methods as prescribed by Presidential Decree. <Amended on February 29, 2008 and April 22, 2009>

(2) The Minister of Culture, Sports and Tourism may entrust affairs as prescribed under Paragraph (1) to an organization determined by Presidential Decree. In this case, the persons who engage in the affairs shall be deemed as public officials. <Amended on February 29, 2008>

(3) In the case where the competent public officials, etc. perform collection, destruction, or deletion pursuant to Paragraphs (1) and (2), the Minister of Culture, Sports and Tourism may ask appropriate organizations to render cooperation, if necessary. <Amended on February 29, 2008 and April 22, 2009>

(4) Deleted <April 22, 2009>

(5) The Minister of Culture, Sports and Tourism may establish and operate an organization necessary for the affairs under Paragraph (1). <Amended on February 29, 2008 and April 22, 2009>

(6) In the case where the provisions of Paragraph (1) to (3) conflict with the provisions of other laws, this Act shall preempt other laws. <Amended on April 22, 2009>

Article 133-2 (Order to Delete Illegal Copies through Information and Telecommunications Networks, Etc.)

(1) In the case where copies or information infringing on copyrights and other rights protected under this Act or programs or information circumventing technological protection measures (hereinafter referred to as "illegal copies, etc.") are interactively transmitted through information and telecommunications networks, the Minister of

Culture, Sports and Tourism may order online service providers to take any of the following measures as prescribed by Presidential Decree after deliberation by the Commission:

1. Issuing warnings against reproducers/interactive transmitters of illegal copies, etc.; and

2. Deletion or suspension of interactive transmission of illegal copies, etc.

(2) If a reproducer/interactive transmitter who received three or more warnings as prescribed under Subparagraph 1 of Paragraph (1) of this Article interactively transmits illegal copies, etc., the Minister of Culture, Sports and Tourism may order online service providers to suspend the account [which refers to accounts on usage rights used by online service providers to identify and manage users (excluding email exclusive accounts) and includes other accounts provided by the corresponding online service providers] of the corresponding reproducer/interactive transmitter within a period of no more than six months as prescribed by Presidential Decree after deliberation by the Commission.

(3) An online service provider receiving an order as prescribed under Paragraph (2) shall notify the corresponding reproducer/interactive transmitter of the fact that the corresponding account will be suspended according to Presidential Decree before seven days from the date of suspending the account.

(4) If a bulletin board established on an information and telecommunications network of online service providers (which refers to a bulletin board that provides commercial interests or convenience of use among those under Subparagraph 9, Paragraph (1), Article 2 of the Act on Promotion of Information and Communications Network Utilization and Information Protection, Etc.; hereinafter the same shall apply.) which received three or more orders as prescribed under Subparagraph 2 of Paragraph (1) of this Article and is considered to seriously damage sound use of works, etc. in light of the format of the corresponding bulletin board, the amount or nature

of copies posted on it, etc., the Minister of Culture, Sports and Tourism may order online service providers to suspend all or part of the bulletin board service within a period of no more than six months as prescribed by Presidential Decree after deliberation by the Commission.

(5) An online service provider receiving an order as prescribed under Paragraph (4) shall post the fact that service of the corresponding bulletin board will be suspended according to Presidential Decree on the homepage of the corresponding online service provider and the corresponding bulletin board before ten days from the date of suspending the service.

(6) Within five days from receiving an order under Paragraph (1), within ten days from receiving an order under Paragraph (2), and within 15 days from receiving an order under Paragraph (4), online service providers shall notify the Minister of Culture, Sports and Tourism of the consequences of carrying out the order as prescribed by Presidential Decree.

(7) The Minister of Culture, Sports and Tourism shall give an opportunity to submit an opinion in advance to online service providers subject to the order under Paragraph (1), (2), or (4), reproducers/interactive transmitters with a direct relationship of interest with the order under Paragraph (2), and operators of bulletin boards under Paragraph (4). In this case, Paragraphs (4) to (6) of Article 22 and Article 27 of the Administrative Procedures Act shall apply *mutatis mutandis* to submission of opinions.

(8) The Minister of Culture, Sports and Tourism may establish and operate an organization necessary for the affairs under Paragraphs (1), (2) and (4).

[This Article added on April 22, 2009]

Article 133-3 (Correction Recommendation, Etc.) (1) When investigating the information and telecommunications networks of online service providers and learning that illegal copies, etc.

are interactively transmitted, the Commission may deliberate on such and recommend the online service providers to take correction measures under any of the following:

1. Issuing warnings against reproducers/interactive transmitters of illegal copies, etc.;
2. Deletion or suspension of interactive transmission of illegal copies, etc.; and
3. Suspension of the accounts of reproducers/interactive transmitters which repeatedly interactively transmit illegal copies, etc.

(2) Within five days from receiving a recommendation under Paragraphs (1) and (2) of Article 1 and within ten days from receiving a recommendation under Paragraph (3) of Article 1, online service providers shall notify the Commission of the consequences of carrying out the recommendation.

(3) If online service providers fail to follow a recommendation under Paragraph (1), the Commission may request the Minister of Culture, Sports and Tourism to issue an order under Paragraphs (1) and (2) of Article 133-2.

(4) If the Minister of Culture, Sports and Tourism issues an order under Paragraphs (1) and (2) of Article 133-2 as prescribed under foregoing Paragraph (3), deliberation by the Commission is not required.

[This Article added on April 22, 2009]

Article 134 (Promotion, Etc. of an Environment for Sound Use of Works <Amended on April 22, 2009>) (1) The Minister of Culture, Sports and Tourism may conduct projects necessary to promote fair use of works such as providing information regarding works, etc. on which copyrights have expired. <Amended on April 22, 2009>

(2) The necessary matters regarding projects under Paragraph (1) shall be set forth by

Presidential Decree. <Amended on April 22, 2009>

(3) Deleted <April 22, 2009>

Article 135 (Donation of Author's Property Rights, Etc.) (1) The owner of author's property rights, etc. may donate their rights to the Minister of Culture, Sports and Tourism. <Amended on February 29, 2008>

(2) The Minister of Culture, Sports and Tourism may appoint an organization which is capable of managing the rights of works, etc. donated by the owner of author's property rights, etc. <Amended on February 29, 2008>

(3) The organization appointed pursuant to Paragraph (2) shall not exploit works, etc. for profit-making purposes or against the intention of the owner of author's property rights, etc.

(4) The necessary matters with respect to donation procedures, appointment of an organization, etc. pursuant to Paragraphs (1) and (2) shall be set forth by Presidential Decree.

CHAPTER 11. PENAL PROVISIONS

Article 136 (Crime of Infringement on Rights) (1) Any person who infringes upon author's property rights or other property rights protected under this Act (excluding the rights under the provision of Article 93) by means of reproduction, public performance, public transmission, exhibition, distribution, rental, or production of a derivative work, shall be punishable by imprisonment for not more than five years or a fine of not more than KRW 50 million, or both.

(2) Any person, who falls under any of the following, shall be punishable by imprisonment for not more than three years or a fine of not more than KRW 30 million, or both <Amended on April 22,

2009>:

1. Any person who has defamed the author or performer by infringing on author's or performer's moral rights;
2. Any person who has made registration, as provided in Articles 53 and 54, falsely (including those cases where the provisions herein apply *mutatis mutandis* in accordance with Paragraph (3) of Article 63, Articles 90 and 98, and Paragraph (6) of Article 101-6);
3. Any person who has infringed upon a database producer's rights protected under Article 93 by means of reproduction, distribution, broadcasting, or interactive transmission;
4. Any person who has committed an act deemed to be an infringement pursuant to Paragraph (1) of Article 124;
5. Any person who has committed an act deemed to be an infringement pursuant to Paragraph (2) of Article 124 in the conduct of business or for a profit-making purpose; and
6. Any person who has committed an act deemed to be an infringement pursuant to Paragraph (3) of Article 124 as a business or for a profit-making purpose: provided that said provision shall not apply to any person lacking the knowledge, by negligence, of the fact that such act causes or conceals infringement on copyrights or other rights protected under this Act.

Article 137 (Crime of Unjust Publications, Etc.) Any person who falls under any of the following shall be punishable by imprisonment for a term of not more than one year or a fine of not more than KRW 10 million <Amended on April 22, 2009>:

1. Any person who has made a work public under the real name or pseudonym of a person other than the author;
2. Any person who has publicly performed or communicated to the public a performance or

distributed copies of the performance under the real name or pseudonym of a person who is not the actual performer;

3. Any person who has violated the provision of Paragraph (2) of Article 14;
4. Any person who has operated copyright trust services without a permit as prescribed under Paragraph (1) of Article 105;
5. Any person who has committed an act deemed to be an infringement pursuant to Paragraph (4) of Article 124;
6. Any person, who has interfered with the business of an online service provider by intentionally requesting such online service provider to stop or resume reproduction or interactive transmission as provided in Paragraph (1) or (3) of Article 103 with the knowledge that he does not have the authority to do so; and
7. Any person who has violated Article 55-2 (including those cases where the provisions herein apply *mutatis mutandis* in accordance with Paragraph (3) of Article 63, Articles 90 and 98, and Paragraph (6) of Article 101-6).

Article 138 (Crime of Failure to Indicate Sources <Amended on April 22, 2009>) Any person who falls under any of the following shall be punishable by a fine of not more than KRW 5 million:

1. Any person who has violated Paragraph (4) of Article 35;
2. Any person who has not indicated the sources prescribed under Article 37 (including those cases where the provisions herein apply *mutatis mutandis* in accordance with Articles 87 and 94);
3. Any person who has not indicated the notice of the owner of the right of reproduction in

violation of Paragraph (3) of Article 58;

4. Any person who has violated Paragraph (2) of Article 59; and

5. Any person who has engaged in copyright agency or brokerage services without reporting to the Minister of Culture, Sports and Tourism as prescribed under Paragraph (1) of Article 105, or who has continued the services after being ordered to close the services under Paragraph (2) of Article 109.

Article 139 (Forfeiture) Copies made in infringement of copyrights or other rights protected under this Act which are owned by the infringing person, printer, distributor, or public performer shall be forfeited.

Article 140 (Complaints) Crimes prescribed in this Chapter shall be prosecuted only when the right holder whose right infringed makes a complaint, except in any of the following cases
<Amended on April 22, 2009>:

1. In a case where a person commits an act which falls under Paragraph (1) of Article 136 and Subparagraph 3 of Paragraph (2) of Article 136 habitually for profit-making purposes;

2. In a case as provided in Subparagraphs 2, 5, and 6 of Paragraph (2) of Article 136, Subparagraphs 1 through 4, 6 and 7 of Article 137, and Subparagraph 5 of Article 138; and

3. In a case where a person commits an act which falls under Subparagraph 4 of Paragraph (2) of Article 136 for profit-making purposes (No punishment shall be inflicted against the victim's expressed wish in case of Subparagraph 3, Paragraph (1), Article 124.)

Article 141 (Joint Penal Provisions) If a representative of a legal person, or an agent, employee, or other employed persons of a legal person or an individual has committed a crime as prescribed under this Chapter with respect to the affairs of the legal person or the individual, the fine prescribed under each of the Articles concerned shall be imposed on such a legal person or an individual in addition to the punishment of the offender: provided that this provision shall not apply if the legal person or individual was not idle in considerable attention and supervision. <Amended on April 22, 2009>

Article 142 (Fine for Negligence) (1) A person who fails to take necessary measures pursuant to Paragraph (1) of Article 104 shall be punishable by a fine for negligence not exceeding KRW 30 million. <Amended on April 22, 2009>

(2) A person who falls under any of the following shall be punished by a fine for negligence not exceeding KRW 10 million <Amended on April 22, 2009>:

1. Person who fails to fulfill his obligations under Article 106;
2. Person who uses the name of the Korea Copyright Commission in violation of Paragraph (4) of Article 112;
3. Person who fails to execute an order of the Minister of Culture, Sports and Tourism under Paragraphs (1), (2) and (4) of Article 133-2; and
4. Person who fails to make a notification under Paragraph (3) of Article 133-2, make a posting under Paragraph (5) of the same Article, and make a notification under Paragraph (6) of the same Article.

(3) The fine for negligence under Paragraphs (1) and (2) shall be levied and collected by the Minister of Culture, Sports and Tourism under the conditions as set forth by Presidential Decree.

<Amended on April 22, 2009>

(4) Deleted <April 22, 2009>

(5) Deleted <April 22, 2009>

ADDENDA <No. 9625, April 22, 2009>

Article 1 (Date of Enforcement) This Act shall come into force three months after the date of its promulgation.

Article 2 (Abrogation of the Computer Programs Protection Act) The Computer Programs Protection Act shall be repealed.

Article 3 (Preparation for the Establishment of the Commission) (1) Preparations to establish the Commission under this Act may be conducted before the enforcement of this Act.

(2) The Minister of Culture, Sports and Tourism shall set up an establishment committee to take charge of duties concerning the establishment of the Commission.

(3) The establishment committee shall consist of five or fewer members nominated by the Minister of Culture, Sports and Tourism, and the chairman of the establishment committee shall be the chairman of the Copyright Commission according to Article 112 of the former Copyright Act.

(4) The establishment committee shall write articles of incorporation and have them authorized by the Minister of Culture, Sports and Tourism before the enforcement of this Act.

(5) The establishment committee shall make a registration of establishment for the Commission when receiving the authorization under Paragraph (4).

(6) Expenses necessary for the establishment of the Commission shall be borne by the national government.

(7) The establishment committee shall hand over the duties without delay to the chairman of the Commission after registration of the establishment of the Commission under Paragraph (5). The members of the establishment committee shall be regarded as discharged when the handover is completed.

Article 4 (Transitional Measures Concerning the Duties, Rights and Obligations, and Employment Relationships Etc. of the Copyright Commission and the Computer Programs Protection Committee, Etc.)

(1) The duties, rights and obligations, properties, and employees' employment relationships of the Copyright Commission and the Computer Programs Protection Committee pursuant to Articles 112 to 122 of the former Copyright Act and Articles 35 to 43 of the former Computer Programs Protection Act at the time of this Act taking effect shall be succeeded by the Korea Copyright Commission.

(2) The chairman and members of the Copyright Commission under Article 112 of the former Copyright Act at the time of this Act taking effect shall be deemed as the chairman and members of the Korea Copyright Commission, and their term of office shall be reckoned from the time when the term of the chairman and member of the former Copyright Commission has commenced.

Article 5 (Transitional Measures Concerning the Scope of Application)

(1) This Act shall not

apply to parts of works, etc. in which rights protected under the former Copyright Act and Computer Programs Protection Act were expired in whole or in part and which were not protected by such before the enforcement of this Act.

(2) The exploitation of programs done before the enforcement of this Act shall be subject to the former Computer Programs Protection Act.

Article 6 (Transitional Measures Concerning the Scope of Statutory License) This Act shall be deemed to apply to the acts under each of the following under the former Computer Programs Protection Act before the enforcement of this Act:

1. Statutory licenses;
2. Designation of a management agency of program copyrights;
3. Designation of a depositor and deposittee of program escrow;
4. Registration of a program;
5. Registration of transfer of program copyrights;
6. Collection of illegal copies of program;
7. Correction orders and recommendations regarding illegal copies of program, etc.;
8. Mediation and conciliation of disputes; and
9. Appraisal of programs

Article 7 (Transitional Measures Concerning Penal Provisions) Application of the penal provisions of the former Computer Programs Protection Act to the acts committed before the enforcement of this Act shall be in accordance with the former Computer Programs Protection Act.

Article 8 (Amendment of Other Laws) (1) The Local Tax Act shall be amended as follows:

“Registration except for inheritance among registrations under Article 54, Paragraph (3) of Article 63, Articles 90 and 98 of Copyright Act” prescribed in Subparagraph 2 of Article 143 shall refer to “registration except for inheritance (excluding program registration) among registrations under Article 54, Paragraph (3) of Article 63, Articles 90 and 98 of the Copyright Act,” and “registration except for inheritance among registrations under Article 26 of the Computer Programs Protection Act” ” prescribed in Subparagraph 2-2 of the same Article shall refer to “program registration under Article 54 of the Copyright Act and registration except for inheritance among registrations under Paragraph (6) of Article 101-6.”

“According to the provisions of the Copyright Act or Computer Programs Protection Act” ” prescribed in Paragraph (2) of Article 150-3 shall refer to “according to the Copyright Act.”

(2) The Online Digital Contents Industry Development Act shall be amended as follows:

“The Copyright Act or the Computer Programs Protection Act when protected by the Copyright Act or the Computer Programs Protection Act” ” prescribed in Article 21 shall refer to “the Copyright Act when protected by the Copyright Act.”

(3) The Customs Act shall be amended as follows:

“Copyrights and neighboring rights under the Copyright Act or program copyrights under the Computer Programs Protection Act (hereinafter referred to as “copyrights, etc.” in this Article)” ” prescribed in Paragraph (1) of Article 235 shall refer to “copyrights and neighboring rights under the Copyright Act (hereinafter referred to as “copyrights, etc.” in this Article).” “The Copyright Act and the Computer Programs Protection Act” ” prescribed in Paragraph (2) of the same Article shall refer to “the Copyright Act.”

(4) The Act on Persons to Perform the Duties of Judicial Police Officers and the Scope of Their Duties shall be amended as follows:

Subparagraph 23-2 of Article 5 and Subparagraph 20-2 of Article 6 shall be deleted.

(5) The Act on the Capital Market and the Financial Investment Business shall be amended as follows:

“Copyright trust services under the Copyright Act and management services of program copyrights under the Computer Programs Protection Act” prescribed in Paragraph (5) of Article 7 shall refer to “copyright trust services under the Copyright Act.”

Article 9 (Relation with Other Laws) In cases where the former Computer Programs Protection Act or its provisions were quoted in other laws at the time of the enforcement of this Act, those laws shall be considered as quoting this Act or the applicable provisions of this Act.